

ST. LUCIE COUNTY SCHOOLS
4204 Okeechobee Road
Fort Pierce, FL 34947

July 14, 2010

Letter of Appeal

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

CC Docket No 02-6

Request for Review of Universal Service Administrative Company (USAC) Schools and Libraries Division (SLD) Administrator's Decision on Appeal, letter dated May 17, 2010, re "*St. Lucie County School District*"

Authorized person who can best discuss this Appeal with you

Richard Larson
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Application Information

<u>Entity</u>	St. Lucie County School District
<u>Billed Entity Number</u>	127892
<u>Funding Year</u>	FY11 (2008-2009)
<u>Form 471 Application Number</u>	593337 ¹
<u>Funding Request Number</u>	1651705
<u>Total Funding Commitment Request</u>	\$434,199.62
<u>Document Being Appealed</u>	Administrator's Decision on Appeal (ADL) dated May 17, 2010, for 471 # 593337, FRN 1651705 ²

ADL Items Being Appealed:

Decision on Appeal: Denied³

Explanation for Funding Denial:⁴

Page 2, first paragraph: ... *neither the RFP, nor the contract listed a provision for a contract extension.*

Page 2, second paragraph: ... *St. Lucie County School District failed to provide evidence that the St. Lucie County School District had a valid contract extension.*

Page 2, last paragraph: ... *The FCC Form 470 associated with your funding request was previously posted without selecting the "multi-year contract" or "voluntary extensions" options in Block 2, Item 13. Subsequently, a new FCC Form 470 should have been posted to the website prior to extending and/or modifying your contract to inform potential bidders about the services sought.*

¹ FCC Form 471 # 593337, funding year 7/1/2008 – 6/30/2009, posted and certified on 1/28/2008 by St. Lucie County School District.

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Richard Larson, eRate 360 Solutions (consultant for St. Lucie County School District), dated May 17, 2010, Administrator's Decision on Appeal (ADL).

³ Ibid., p. 1.

⁴ Ibid., p. 2 and 3.

By not posting a new FCC Form 470 for the changes in your contract, you have violated the competitive bidding requirements of the program.

Appeal:

St. Lucie County School District (St. Lucie CSD) respectfully requests the Commission reverse the SLD decision to deny funding for FRN 1651705 and approve the originally requested commitment of \$434,199.62. St. Lucie CSD contends that:

- During the Forms 470-471 preparation period for funding year 2003-04 (November, 2002, through February, 2003) there was no requirement to list a provision for a contract extension. This contention is supported by FCC ruling.
- In November, 2007, because of the merger of BellSouth with AT&T, St. Lucie was forced to sign an extension to the original contract at that time to avoid the doubling of prices from AT&T. St. Lucie CSD's understanding of the E-rate rules in effect in 2002-03, rules that governed the original contract, led them to believe that an extension of that contract was acceptable. They chose to extend the contract in order to provide the most cost-effective solution to providing the necessary bandwidth of WAN service to their schools. The correctness of this choice is demonstrated in the more costly, less effective solution they were forced into in the following funding year.
- St. Lucie CSD is being denied significant funding for attempting to follow a complex set of rules in order to procure cost-effective service. The FCC has ruled in a number of instances that applicants are not to be penalized for running afoul of the extraordinary complexities of the E-rate system, especially when there is no evidence of waste, fraud, or abuse, and as in this case, where St. Lucie CSD's actions were designed to arrive at the most cost-effective solution to its broadband networking needs.

FY 2003-04 Form 470 # 613270000424954 and RFP:

In its ADL of February 18, 2010, SLD states that among its reasons for denial of funding is *"Form 470 associated with your funding request was previously posted without selecting the "multi-year contract" or "voluntary extensions" options in Block 2, Item 13."*⁵

However, neither the 470 instructions nor the form itself require "selecting" either of these options.

- Form 470, Item 13, has instructions which state that posting this information is optional: *"... you may provide that information below."*⁶ [emphasis added].
- The instructions for the Form 470, Item 13, available in late 2002 also state *"You may provide information ..."* and concludes: *"Providing this information is optional."*⁷

St. Lucie CSD respectfully points out apparent confusion on the part of SLD in its language by using the word *"selecting the "multi-year contract" or "voluntary extensions" options"*. This implies choosing among listed options on the form, something that now exists of the revised Form 470 in Item 7. Such confusion can occur when complex rules are changed, even for the most knowledgeable. As we point out below, it contributed significantly to confusion for St. Lucie CSD.

⁵ Ibid., p. 2.

⁶ FCC Form 470 # 613270000424954, funding year 7/1/2003 – 6/30/2004, posted and certified on 11/6/2002 by St. Lucie County School District.

⁷ Instruction for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form (FCC Form 470), September 1999, p.10

FCC Ruling: *Aberdeen School District* and *Albert Lea Area Schools*:

In "*Aberdeen School District, Aberdeen, WA, et al.*", and later re-affirmed in "*Albert Lea Area Schools, Albert Lea, Minnesota, et al.*", the FCC ruled in part that "*Other Petitioners did not indicate they were posting for a multi-year contract or a contract with a voluntary renewal provision when they originally posted the FCC Form 470.*"⁸ It appears that all nine applicants affected by this ruling had filed the same older version of the Form 470 using the same instructions as did St. Lucie CSD. We believe that the "*Aberdeen*" ruling applies directly to St. Lucie CSD's case, and that it nullifies SLD's various objections relating to Form 470 # 613270000424954 (and the accompanying RFP) regarding contract extensions.

Contract Extension of November 2, 2007:

BellSouth was the service provider in the original WAN contract of January 27, 2003. This contract provided a single provider for 1 GBPS bandwidth to all St. Lucie CSD sites at an average monthly cost under \$915 per site.⁹ Even after the contract was modified to accommodate the USAC denial of "dark fiber" as an eligible service, the average monthly cost was \$970 per site over the last four years of the contract.¹⁰

As a consequence of the December 2006 acquisition of BellSouth by AT&T, in the fall of 2007 AT&T advised St. Lucie CSD that they could preserve the existing pricing structure for two years by immediately extending the existing contract, but that St. Lucie CSD would face substantial price increases if a new contract was entered into. The new AT&T monthly price of \$1,950 per site for 1 GBPS bandwidth was more than double the existing BellSouth prices.

Faced with budgetary limitations, St. Lucie CSD could not afford the new AT&T prices while maintaining bandwidth to all sites. They further realized that if they were forced to place this service up for bid via the Form 470 process rather than yield to AT&T's demand for an immediate extension of the existing contract, they would be subject to doubling of costs for the same service.

St. Lucie CSD believed that the E-rate rules regarding their FY 2003-04 Form 470 # 613270000424954 did not prevent them from extending their BellSouth WAN contract, and that by extending the original contract for two years they would accomplish two things:

- Minimize costs and maintain service by preserving 1 GBPS service to all sites and at the same time avoiding a cost increase of more than \$540,000 per year.¹¹
- Remain within the e-rate rules as they understood them.

What they did not reckon with was the complexities of the E-rate system that might contain pitfalls that would lead to SLD's denial of their funding request.

⁸ FCC 07-63, May 8, 2007, "*Aberdeen School District, Aberdeen, WA, et al.*", File Nos. SLD- 297249, et al., CC Docket No. 02-6; p. 6.

⁹ FCC Form 471 # 358608, funding year 7/1/2003 – 6/30/2004, certified on 1/31/2003 by St. Lucie CSD. *FRN 900056: Item 23c, Eligible monthly amt. of \$32,000.00 divided by Block 4 entity count of 35 = \$914.29 average monthly cost per site.*

¹⁰ *NOTE: Using the same computation as used for the FY 2003-04, the average monthly cost per site was \$1,047.06 for FY 2004-05 (FRN 1160974: \$37,694 MRC for 36 entities), \$907.22 for FY 2005-06 (FRN 1228926: \$41,732 MRC for 46 entities), \$956.67 for FY 2006-07 (FRN 1370653: \$43,050 MRC for 45 entities), and \$968.13 for FY 2007-08 (FRN 1504504: \$45,502 MRC for 47 entities).*

¹¹ *NOTE: St. Lucie CSD's action to avoid \$540,000 of pre-discount costs would have saved the E-rate program nearly \$400,000 of discount reimbursement at their 73% discount rate.*

Subsequently, St. Lucie CSD's actions for the funding year 2009-10 confirm all too clearly the cost-and-service crunch that AT&T presented to St. Lucie CSD in November 2007. In the fall of 2008, alarmed by the pending denial of their FY 2008-09 FRN 1651705, St. Lucie CSD placed the WAN service on the FY 2009-10 Form 470. This resulted in two new contracts to replace the BellSouth extended contract, which:

- Reduced service to schools in the District: Bandwidth to 16 of St. Lucie CSD's 46 sites was reduced – 14 to 100 MBPS and two to 50 MBPS.
- Increased difficulty in managing the District's WAN: Management of the WAN had to be split between two service providers – AT&T to manage 32 sites (16 at 1 GBPS and 16 at the reduced bandwidths) and Fort Pierce Utilities Authority (FPUA) to manage 14 sites at 1 GBPS (note that these 14 sites were the limit of FPUA's coverage of the district).
- Increased costs for a degraded level of service to the District: St. Lucie CSD incurred non-recurring costs of \$113,828 plus an increase in monthly recurring costs of about \$60,000 per year.¹² This increase of about \$174,000 provided a significantly degraded level of service and management.

Clearly, in the fall of 2007, St. Lucie CSD was caught between AT&T's demands which threatened the District with higher costs for less service, and the complexities of the E-rate system, complexities which now threaten a greater cost penalty than did AT&T's demands.

FCC Rulings: *Adams County School District 14* and *Barberton City School District*

St. Lucie CSD's actions in the fall of 2007 were designed to provide the most cost-effective WAN service to all schools in the district. This included preserving the major source of funding, E-rate discounts of \$434,199.62; without this funding, this service is not affordable especially in this time of drastic funding cuts. St. Lucie CSD proceeded with the belief that the FY 2003-04 Form 470 # 613270000424954 did not prevent them from extending their BellSouth WAN contract, a belief eventually supported by FCC rulings.

The rules governing the contract extension are complex and lead to misinterpretation, even as the applicant is making every effort to provide cost-effective solutions to its needs. The FCC takes note of the need to recognize errors made in applying confusing and unclear E-rate rules during the Form 470 bid-through-contract process, and grants relief - not only in "*Aberdeen*" but also in "*Adams County School District 14, Commerce City, Colorado, et al.*" and in "*Barberton City School District, Barberton, Ohio, et al.*"

Although the particular situation encountered by St. Lucie CSD in the fall of 2007 is not specifically covered by these rulings, it is clear that:

- St. Lucie CSD acted to provide the most cost-effective WAN service to the schools in its district.
- "*There is no evidence in the record that Petitioners engaged in activity to defraud or abuse the E-rate program.*"¹³
- "*Denying their requests for funding would create undue hardship and prevent these otherwise eligible schools ... from receiving E-rate funding.*"¹⁴
- Committed "*mistakes [that] do not warrant the complete rejection of ... applications for E-rate funding*"¹⁵

¹² NOTE: FRN 1884007 (BellSouth Telecommunications): MRC is \$45,014 for 37 entities; FRN 1846381 (Fort Pierce Utilities Authority): MRC is \$5,250 for 14 entities.

¹³ Adams, p.6; Aberdeen, p.7.

¹⁴ Adams, p.6; Aberdeen, p.7; Barberton, p.6.

¹⁵ Adams, p.5; Aberdeen, p.6; Barberton, p.5.

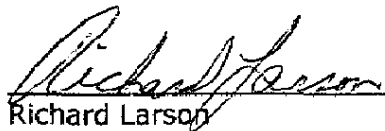
Conclusion:

St. Lucie CSD contends that its efforts to avoid increased costs and reduced bandwidth to many of its schools, while attempting to abide by E-rate rules governing the Form 470/RFP process, has led to this denial of funding. SLD explanations for denial relating to Item 13 of the establishing Form 470 are nullified by FCC rulings.

St. Lucie CSD has been caught in a vise between fiscally damaging actions threatened by AT&T and the complexities of the E-rate system. If they have failed to correctly walk the fine line between these two giants, they did so with every intent of obtaining necessary services at the best possible cost. We ask the Commission approach its decision with a sense of fairness and an understanding of the financial hardship this denial brings to St. Lucie CSD, and overturn SLD's denial.

Accordingly, St. Lucie CSD respectfully requests the FCC to reverse the Schools and Libraries Division's decision to deny funding for FRN 1651705 and approve the originally requested commitment of \$434,199.62. St. Lucie CSD appreciates the Commission's consideration of its appeal. We are available to respond to questions or to provide any further information requested by the Commission.

Authorized signature for this Appeal¹⁶


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¹⁶ "Letter of Agency" from Terence O'Leary, Assistant Superintendent for ITS, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of St. Lucie CSD.

St. Lucie County School District
BEN 127892
471 # 593337, FRN 1651705
Letter of Appeal
Federal Communications Commission
July 14, 2010

NOTE 1 - StLucie_FY11_471_593337_app-original

FCC Form 471	Do not write in this area.	Approval by OMB 3060-0806			
Schools and Libraries Universal Service Description of Services Ordered and Certification Form 471 Estimated Average Burden Hours per Response: 4 hours					
<p>This form asks schools and libraries to list the eligible telecommunications-related services they have ordered and estimate the annual charges for them so that the Fund Administrator can set aside sufficient support to reimburse providers for services.</p> <p>Please read instructions before beginning this application. (You can also file online at www.sl.universalservice.org.)</p> <p>The instructions include information on the deadlines for filing this application.</p>					
<table style="width: 100%;"> <tr> <td style="width: 40%;"> Applicant's Form Identifier (Create your own code to identify THIS form 471) </td> <td style="width: 30%;"> Form 471 Application# (To be assigned by administrator) </td> <td style="width: 30%; text-align: right;"> 593337 </td> </tr> </table>			Applicant's Form Identifier (Create your own code to identify THIS form 471)	Form 471 Application# (To be assigned by administrator)	593337
Applicant's Form Identifier (Create your own code to identify THIS form 471)	Form 471 Application# (To be assigned by administrator)	593337			
Block 1: Billed Entity Information (The "Billed Entity" is the entity paying the bills for the service listed on this form.)					
1 a	Name of Billed Entity ST LUCIE COUNTY SCHOOL DIST				
2 a	Funding Year: July 1, 2008 Through June 30: 2009 Billed Entity Number: 127892				
4 a	Street Address, P.O. Box, or Routing Number 4204 OKEECHOBEE ROAD				
	City FORT PIERCE				
	State FL Zip Code 34947				
5 a	Type of Application <div style="margin-left: 20px;"> <input type="checkbox"/> Individual School (individual public or non-public school) <input checked="" type="checkbox"/> School District (LEA; public or non-public [e.g. diocesan] local district representing multiple schools) <input type="checkbox"/> Library (including library system, library outlet/branch or library consortium as defined under LSTA) <input type="checkbox"/> Consortium <input type="checkbox"/> Check here if any members of this consortium are ineligible or non-governmental entities) </div>				
6	Contact Person's Name David Jasa				
First, if the Contact Person's Street Address is the same as in Item 4, check this box. <input type="checkbox"/> If not, please complete the entries for the Street Address below.					
b	Street Address, P.O. Box, or Routing Number 4204 OKEECHOBEE ROAD				
	City FORT PIERCE				
	State FL Zip Code 34947				

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FCC Form 471 - November 2004

Entity Number <u>127892</u>	Applicant's Form Identifier <u>WAN Fiber Lease</u>
Contact Person <u>David Jasa</u>	Phone Number <u>772-429-7540</u>
<p>This information will facilitate the processing of your applications. Please complete all rows that apply to services for which you are requesting discounts. Complete this information on the FIRST Form 471 you file, to encompass this and all other Forms 471 you will file for this funding year. You need not complete this information on subsequent Forms 471. Provide your best estimates for the services ordered across ALL of your Forms 471.</p> <p>Schools/school districts complete Item 7. Libraries complete Item 8. Consortia complete Item 7 and/or Item 8.</p>	
Block 2: Impact of Services Ordered on Schools	
IF THIS APPLICATION INCLUDES SCHOOLS...	BEFORE ORDER AFTER ORDER

7a	Number of students to be served		39050
f	Number of classrooms with Internet access	2926	2926
g	Number of computers or other devices with Internet access	16852	16852

Block 3: Impact of Services Ordered on Libraries**NOT APPLICABLE AS THIS APPLICATION IS FOR DISTRICT****Worksheet A No:** 941773**Student Count:** 39050**Weighted Product (Sum. Column 8):** 28535.6**Shared Discount:** 73%**1. School Name:** ALLAPATTAH FLATS**2. Entity Number:** 16040210 **NCES:** 12 01770**3. Rural/Urban:** Urban**4. Student Count:** 1239**5. NSLP Students:** 477**6. NSLP Students/Students:** 38.498%**7. Discount:** 60%**8. Weighted Product:** 743.4**9. Pre-K/Adult Ed/Juv:****10. Alt Disc Mech:****1. School Name:** ANGLEWOOD CENTER**2. Entity Number:** 38807 **NCES:** 12 01770 02411**3. Rural/Urban:** Urban**4. Student Count:** 40**5. NSLP Students:** 28**6. NSLP Students/Students:** 70.000%**7. Discount:** 80%**8. Weighted Product:** 32**9. Pre-K/Adult Ed/Juv:****10. Alt Disc Mech:****1. School Name:** BAYSHORE ELEMENTARY SCHOOL**2. Entity Number:** 38870 **NCES:** 12 01770 02638**3. Rural/Urban:** Urban**4. Student Count:** 1201**5. NSLP Students:** 619**6. NSLP Students/Students:** 51.540%**7. Discount:** 80%**8. Weighted Product:** 960.8**9. Pre-K/Adult Ed/Juv:****10. Alt Disc Mech:****1. School Name:** CHESTER A MOORE ELEMENTARY SCHOOL**2. Entity Number:** 38805 **NCES:** 12 01770 01931**3. Rural/Urban:** Urban**4. Student Count:** 648**5. NSLP Students:** 591**6. NSLP Students/Students:** 91.203%**7. Discount:** 90%**8. Weighted Product:** 583.2**9. Pre-K/Adult Ed/Juv:****10. Alt Disc Mech:****1. School Name:** DALE CASSENS EDUCATIONAL CTR**2. Entity Number:** 38815 **NCES:** 12 01770 02674**3. Rural/Urban:** Urban**4. Student Count:** 95**5. NSLP Students:** 81**6. NSLP Students/Students:** 85.263%**7. Discount:** 90%**8. Weighted Product:** 85.5**9. Pre-K/Adult Ed/Juv:****10. Alt Disc Mech:****1. School Name:** DAN MCCARTY MIDDLE SCHOOL**2. Entity Number:** 38819 **NCES:** 12 01770 01927**3. Rural/Urban:** Urban**4. Student Count:** 1085**5. NSLP Students:** 795**6. NSLP Students/Students:** 73.271%**7. Discount:** 80%**8. Weighted Product:** 868**9. Pre-K/Adult Ed/Juv:****10. Alt Disc Mech:****1. School Name:** DETENTION CENTER**2. Entity Number:** 203727 **NCES:** 12 01770 02903**3. Rural/Urban:** Urban

4. Student Count: 48	5. NSLP Students: 48	6. NSLP Students/Students: 100.000%
7. Discount: 90%	8. Weighted Product: 43.2	
9. Pre-K/Adult Ed/Juv:	10. Alt Disc Mech:	

1. School Name: EAST COUNTY COMPLEX
2. Entity Number: 16045935 **NCES:** 12 01770
3. Rural/Urban: Urban
4. Student Count: 0
7. Discount: 72%
9. Pre-K/Adult Ed/Juv:

5. NSLP Students: 0
8. Weighted Product: 0
10. Alt Disc Mech:

6. NSLP Students/Students:

1. School Name: FAIRLAWN ELEMENTARY SCHOOL
2. Entity Number: 38804 **NCES:** 12 01770 01923
3. Rural/Urban: Urban
4. Student Count: 687
7. Discount: 60%
9. Pre-K/Adult Ed/Juv:

5. NSLP Students: 266
8. Weighted Product: 412.2
10. Alt Disc Mech:

6. NSLP Students/Students: 38.719%

1. School Name: FLORESTA ELEMENTARY SCHOOL
2. Entity Number: 38866 **NCES:** 12 01770 02264
3. Rural/Urban: Urban
4. Student Count: 783
7. Discount: 80%
9. Pre-K/Adult Ed/Juv:

5. NSLP Students: 439
8. Weighted Product: 626.4
10. Alt Disc Mech:

6. NSLP Students/Students: 56.066%

1. School Name: FOREST GROVE MIDDLE SCHOOL
2. Entity Number: 38856 **NCES:** 12 01770 02902
3. Rural/Urban: Urban
4. Student Count: 944
7. Discount: 90%
9. Pre-K/Adult Ed/Juv:

5. NSLP Students: 726
8. Weighted Product: 849.6
10. Alt Disc Mech:

6. NSLP Students/Students: 76.906%

1. School Name: FORT PIERCE CENTRAL HIGH SCH
2. Entity Number: 38858 **NCES:** 12 01770 01933
3. Rural/Urban: Urban
4. Student Count: 1468
7. Discount: 80%
9. Pre-K/Adult Ed/Juv:

5. NSLP Students: 933
8. Weighted Product: 1174.4
10. Alt Disc Mech:

6. NSLP Students/Students: 63.555%

1. School Name: FORT PIERCE-WESTWOOD HIGH SCH
2. Entity Number: 38808 **NCES:** 12 01770 12104
3. Rural/Urban: Urban
4. Student Count: 1370
7. Discount: 80%
9. Pre-K/Adult Ed/Juv:

5. NSLP Students: 842
8. Weighted Product: 1096
10. Alt Disc Mech:

6. NSLP Students/Students: 61.459%

1. School Name: FRANCIS K SWEET ELEMENTARY SCHOOL
2. Entity Number: 38811 **NCES:** 12 01770 01928
3. Rural/Urban: Urban
4. Student Count: 673
7. Discount: 60%
9. Pre-K/Adult Ed/Juv:

5. NSLP Students: 299
8. Weighted Product: 403.8
10. Alt Disc Mech:

6. NSLP Students/Students: 44.427%

1. School Name: FT. PIERCE MAGNET SCHOOL OF THE ARTS
2. Entity Number: 201803 **NCES:** 12 01770 03500
3. Rural/Urban: Urban
4. Student Count: 419
7. Discount: 80%
9. Pre-K/Adult Ed/Juv:

5. NSLP Students: 237
8. Weighted Product: 335.2
10. Alt Disc Mech:

6. NSLP Students/Students: 56.563%

1. School Name: GARDEN CITY ELEMENTARY SCHOOL
2. Entity Number: 38810 **NCES:** 12 01770 01930
3. Rural/Urban: Urban
4. Student Count: 609

5. NSLP Students: 522

6. NSLP Students/Students: 85.714%

7. Discount: 90% 8. Weighted Product: 548.1
9. Pre-K/Adult Ed/Juv: 10. Alt Disc Mech:

1. School Name: INDIAN HILLS SCHOOL
2. Entity Number: 16021969 NCES: 12 01770 01410
3. Rural/Urban: Urban
4. Student Count: 52 5. NSLP Students: 43 6. NSLP Students/Students: 82.692%
7. Discount: 90% 8. Weighted Product: 46.8
9. Pre-K/Adult Ed/Juv: 10. Alt Disc Mech:

1. School Name: LAKEWOOD PARK ELEM SCHOOL
2. Entity Number: 38821 NCES: 12 01770 02265
3. Rural/Urban: Urban
4. Student Count: 743 5. NSLP Students: 548 6. NSLP Students/Students: 73.755%
7. Discount: 80% 8. Weighted Product: 594.4
9. Pre-K/Adult Ed/Juv: 10. Alt Disc Mech:

1. School Name: LAWNWOOD ELEMENTARY SCHOOL
2. Entity Number: 38814 NCES: 12 01770 01925
3. Rural/Urban: Urban
4. Student Count: 751 5. NSLP Students: 568 6. NSLP Students/Students: 75.632%
7. Discount: 90% 8. Weighted Product: 675.9
9. Pre-K/Adult Ed/Juv: 10. Alt Disc Mech:

1. School Name: MANATEE ELEMENTARY SCHOOL
2. Entity Number: 38871 NCES: 12 01770 01111
3. Rural/Urban: Urban
4. Student Count: 1282 5. NSLP Students: 642 6. NSLP Students/Students: 50.078%
7. Discount: 80% 8. Weighted Product: 1025.6
9. Pre-K/Adult Ed/Juv: 10. Alt Disc Mech:

1. School Name: MARIPOSA ELEMENTARY SCHOOL
2. Entity Number: 38827 NCES: 12 01770 01081
3. Rural/Urban: Urban
4. Student Count: 884 5. NSLP Students: 548 6. NSLP Students/Students: 61.990%
7. Discount: 80% 8. Weighted Product: 707.2
9. Pre-K/Adult Ed/Juv: 10. Alt Disc Mech:

1. School Name: MORNINGSIDE ELEMENTARY SCHOOL
2. Entity Number: 38823 NCES: 12 01770 02266
3. Rural/Urban: Urban
4. Student Count: 676 5. NSLP Students: 295 6. NSLP Students/Students: 43.639%
7. Discount: 60% 8. Weighted Product: 405.6
9. Pre-K/Adult Ed/Juv: 10. Alt Disc Mech:

1. School Name: NORTHPORT MIDDLE SCHOOL
2. Entity Number: 38869 NCES: 12 01770 02481
3. Rural/Urban: Urban
4. Student Count: 1281 5. NSLP Students: 716 6. NSLP Students/Students: 55.893%
7. Discount: 80% 8. Weighted Product: 1024.8
9. Pre-K/Adult Ed/Juv: 10. Alt Disc Mech:

1. School Name: OAK HAMMOCK SCHOOL
2. Entity Number: 16022741 NCES: 12 01770 03943
3. Rural/Urban: Urban
4. Student Count: 1920 5. NSLP Students: 817 6. NSLP Students/Students: 42.552%
7. Discount: 60% 8. Weighted Product: 1152
9. Pre-K/Adult Ed/Juv: 10. Alt Disc Mech:

1. School Name: PARKWAY ELEMENTARY SCHOOL
2. Entity Number: 38867 NCES: 12 01770 02673
3. Rural/Urban: Urban
4. Student Count: 599 5. NSLP Students: 433 6. NSLP Students/Students: 72.287%
7. Discount: 80% 8. Weighted Product: 479.2

9. Pre-K/Adult Ed/Juv: **10. Alt Disc Mech:**

1. **School Name:** PERFORMANCE BASED DIPLOMA PROG/FT. PIERCE CENTRAL HIGH SCHOOL
 2. **Entity Number:** 203726 **NCES:** 12 01770 01079
 3. **Rural/Urban:** Urban
 4. **Student Count:** 141 5. **NSLP Students:** 57 6. **NSLP Students/Students:** 40.425%
 7. **Discount:** 60% 8. **Weighted Product:** 84.6
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** PORT ST LUCIE ELEM SCHOOL
 2. **Entity Number:** 38862 **NCES:** 12 01770 01934
 3. **Rural/Urban:** Urban
 4. **Student Count:** 876 5. **NSLP Students:** 541 6. **NSLP Students/Students:** 61.758%
 7. **Discount:** 80% 8. **Weighted Product:** 700.8
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** PORT ST LUCIE HIGH SCHOOL
 2. **Entity Number:** 38828 **NCES:** 12 01770 02671
 3. **Rural/Urban:** Urban
 4. **Student Count:** 2185 5. **NSLP Students:** 888 6. **NSLP Students/Students:** 40.640%
 7. **Discount:** 60% 8. **Weighted Product:** 1311
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** RIVERS EDGE ELEMENTARY
 2. **Entity Number:** 38864 **NCES:** 12 01770 03019
 3. **Rural/Urban:** Urban
 4. **Student Count:** 853 5. **NSLP Students:** 440 6. **NSLP Students/Students:** 51.582%
 7. **Discount:** 80% 8. **Weighted Product:** 682.4
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** SAINT LUCIE ELEMENTARY SCHOOL
 2. **Entity Number:** 38816 **NCES:** 12 01770 01926
 3. **Rural/Urban:** Urban
 4. **Student Count:** 817 5. **NSLP Students:** 687 6. **NSLP Students/Students:** 84.088%
 7. **Discount:** 90% 8. **Weighted Product:** 735.3
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** SAMUEL S. GAINES ACADEMY
 2. **Entity Number:** 16039730 **NCES:** 12 01770
 3. **Rural/Urban:** Urban
 4. **Student Count:** 1134 5. **NSLP Students:** 779 6. **NSLP Students/Students:** 68.694%
 7. **Discount:** 80% 8. **Weighted Product:** 907.2
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** SAVANNA RIDGE ELEMENTARY SCHOOL
 2. **Entity Number:** 201805 **NCES:** 12 01770 03501
 3. **Rural/Urban:** Urban
 4. **Student Count:** 627 5. **NSLP Students:** 359 6. **NSLP Students/Students:** 57.256%
 7. **Discount:** 80% 8. **Weighted Product:** 501.6
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** SOUTH CO COMPLEX OFFICE
 2. **Entity Number:** 16031281 **NCES:** 12 01770
 3. **Rural/Urban:** Urban
 4. **Student Count:** 0 5. **NSLP Students:** 0 6. **NSLP Students/Students:**
 7. **Discount:** 72% 8. **Weighted Product:** 0
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** SOUTH COUNTY COMPLEX FACILITIES & MAINTENANCE
 2. **Entity Number:** 16027326 **NCES:** 12 01770
 3. **Rural/Urban:** Urban
 4. **Student Count:** 0 5. **NSLP Students:** 0 6. **NSLP Students/Students:**
 7. **Discount:** 72% 8. **Weighted Product:** 0
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** SOUTH COUNTY COMPLEX FOOD SERVICES DEPT.
 2. **Entity Number:** 16027330 **NCES:** 12 01770
 3. **Rural/Urban:** Urban
 4. **Student Count:** 0
 5. **NSLP Students:** 0
 6. **NSLP Students/Students:**
 7. **Discount:** 72%
 8. **Weighted Product:** 0
 9. **Pre-K/Adult Ed/Juv:**
 10. **Alt Disc Mech:**

1. **School Name:** SOUTH COUNTY COMPLEX PURCHASING, STORES & WAREHOUSE
 2. **Entity Number:** 16027332 **NCES:** 12 01770
 3. **Rural/Urban:** Urban
 4. **Student Count:** 0
 5. **NSLP Students:** 0
 6. **NSLP Students/Students:**
 7. **Discount:** 72%
 8. **Weighted Product:** 0
 9. **Pre-K/Adult Ed/Juv:**
 10. **Alt Disc Mech:**

1. **School Name:** SOUTH COUNTY COMPLEX TRANSPORTATION DEPT.
 2. **Entity Number:** 16027325 **NCES:** 12 01770
 3. **Rural/Urban:** Urban
 4. **Student Count:** 0
 5. **NSLP Students:** 0
 6. **NSLP Students/Students:**
 7. **Discount:** 72%
 8. **Weighted Product:** 0
 9. **Pre-K/Adult Ed/Juv:**
 10. **Alt Disc Mech:**

1. **School Name:** SOUTHERN OAKS MIDDLE SCHOOL
 2. **Entity Number:** 38865 **NCES:** 12 01770 03020
 3. **Rural/Urban:** Urban
 4. **Student Count:** 864
 5. **NSLP Students:** 477
 6. **NSLP Students/Students:** 55.208%
 7. **Discount:** 80%
 8. **Weighted Product:** 691.2
 9. **Pre-K/Adult Ed/Juv:**
 10. **Alt Disc Mech:**

1. **School Name:** SOUTHPORT MIDDLE SCHOOL
 2. **Entity Number:** 38825 **NCES:** 12 01770 02901
 3. **Rural/Urban:** Urban
 4. **Student Count:** 1054
 5. **NSLP Students:** 569
 6. **NSLP Students/Students:** 53.984%
 7. **Discount:** 80%
 8. **Weighted Product:** 843.2
 9. **Pre-K/Adult Ed/Juv:**
 10. **Alt Disc Mech:**

1. **School Name:** ST LUCIE WEST CENTENNIAL HIGH
 2. **Entity Number:** 205753 **NCES:** 12 01770 03503
 3. **Rural/Urban:** Urban
 4. **Student Count:** 2506
 5. **NSLP Students:** 907
 6. **NSLP Students/Students:** 36.193%
 7. **Discount:** 60%
 8. **Weighted Product:** 1503.6
 9. **Pre-K/Adult Ed/Juv:**
 10. **Alt Disc Mech:**

1. **School Name:** ST. LUCIE COUNTY SCHOOL DISTRICT OFFICE
 2. **Entity Number:** 16027333 **NCES:** 12 01770
 3. **Rural/Urban:** Urban
 4. **Student Count:** 0
 5. **NSLP Students:** 0
 6. **NSLP Students/Students:**
 7. **Discount:** 72%
 8. **Weighted Product:** 0
 9. **Pre-K/Adult Ed/Juv:**
 10. **Alt Disc Mech:**

1. **School Name:** ST. LUCIE WEST MIDDLE SCHOOL
 2. **Entity Number:** 201806 **NCES:** 12 01770 03502
 3. **Rural/Urban:** Urban
 4. **Student Count:** 1914
 5. **NSLP Students:** 879
 6. **NSLP Students/Students:** 45.924%
 7. **Discount:** 60%
 8. **Weighted Product:** 1148.4
 9. **Pre-K/Adult Ed/Juv:**
 10. **Alt Disc Mech:**

1. **School Name:** TEMPARY SITE
 2. **Entity Number:** 16040773 **NCES:** 12 01770
 3. **Rural/Urban:** Urban
 4. **Student Count:** 0
 5. **NSLP Students:** 0
 6. **NSLP Students/Students:**
 7. **Discount:** 72%
 8. **Weighted Product:** 0
 9. **Pre-K/Adult Ed/Juv:**
 10. **Alt Disc Mech:**

1. **School Name:** TREASURE COAST HIGH SCHOOL
 2. **Entity Number:** 16027674 **NCES:** 12 01770 04148
 3. **Rural/Urban:** Urban
 4. **Student Count:** 1686 5. **NSLP Students:** 670 6. **NSLP Students/Students:** 39.739%
 7. **Discount:** 60% 8. **Weighted Product:** 1011.6
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** VILLAGE GREEN ELEMENTARY SCH
 2. **Entity Number:** 38826 **NCES:** 12 01770 02537
 3. **Rural/Urban:** Urban
 4. **Student Count:** 635 5. **NSLP Students:** 268 6. **NSLP Students/Students:** 42.204%
 7. **Discount:** 60% 8. **Weighted Product:** 381
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** WEATHERBEE ELEMENTARY SCHOOL
 2. **Entity Number:** 38860 **NCES:** 12 01770 03121
 3. **Rural/Urban:** Urban
 4. **Student Count:** 637 5. **NSLP Students:** 478 6. **NSLP Students/Students:** 75.039%
 7. **Discount:** 90% 8. **Weighted Product:** 573.3
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** WESTGATE K-8 SCHOOL
 2. **Entity Number:** 16034640 **NCES:** 12 01770 05371
 3. **Rural/Urban:** Urban
 4. **Student Count:** 1839 5. **NSLP Students:** 780 6. **NSLP Students/Students:** 42.414%
 7. **Discount:** 60% 8. **Weighted Product:** 1103.4
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** WHITE CITY ELEMENTARY SCHOOL
 2. **Entity Number:** 38861 **NCES:** 12 01770 01922
 3. **Rural/Urban:** Urban
 4. **Student Count:** 557 5. **NSLP Students:** 447 6. **NSLP Students/Students:** 80.251%
 7. **Discount:** 90% 8. **Weighted Product:** 501.3
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

1. **School Name:** WINDMILL POINT ELEM SCHOOL
 2. **Entity Number:** 38829 **NCES:** 12 01770 02536
 3. **Rural/Urban:** Urban
 4. **Student Count:** 1228 5. **NSLP Students:** 634 6. **NSLP Students/Students:** 51.628%
 7. **Discount:** 80% 8. **Weighted Product:** 982.4
 9. **Pre-K/Adult Ed/Juv:** 10. **Alt Disc Mech:**

Block 5: Discount Funding Request(s)

FRN: 1651705 FCDL Date:	
10. Original FRN:	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 613270000424954
13. SPIN: 143004824	14. Service Provider Name: BellSouth Telecommunications, Inc.
15a. Non-Contracted tariffed/Month to Month Service:	15b. Contract Number: RFP/03-1
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number: 772-V95-3848-848	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 12/04/2002	18. Contract Award Date: 01/28/2003
19a. Service Start Date: 07/01/2008	19b. Service End Date:
20. Contract Expiration Date: 06/30/2010	
21. Attachment #: 3 Fiber WAN	22. Block 4 Worksheet No.: 941773
23a. Monthly Charges: \$44,556.00	23b. Ineligible monthly amt.: \$.00

23c. Eligible monthly amt.: \$44,556.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$534,672.00	
23f. Annual non-recurring (one-time) charges: 60122	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$60,122.00	
23i. Total program year pre-discount amount (23e + 23h): \$594,794.00	
23j. % discount (from Block 4): 73	
23k. Funding Commitment Request (23i x 23j): \$434,199.62	

Block 6: Certifications and Signature

Do not write in this area.

Application ID:593337

Entity Number	<u>127892</u>	Applicant's Form Identifier	<u>WAN Fiber Lease</u>
Contact Person	<u>David Jasa</u>	Phone Number	<u>772-429-7540</u>

Block 6: Certifications and Signature

24. ☒ I certify that the entities listed in Block 4 of this application are eligible for support because they are: (check one or both)
- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools including, but not limited to elementary, secondary schools, colleges, or universities
25. ☒ I certify that the entity I represent or the entities listed on this application have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities I represent or the entities listed in this application have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

a.	Total funding year pre-discount amount on this Form 471 (Add the entities from Item 23i on all Block 5 Discount Funding Requests.)	\$461,126.00
b.	Total funding commitment request amount on this Form 471 (Add the entities from Items 23K on all Block 5 Discount Funding Requests.)	\$341,233.24
c.	Total applicant non-discount share (Subtract Item 25b from Item 25a.)	\$119,892.76
d.	Total budgeted amount allocated to resources not eligible for E-rate support	\$2,000,000.00
e.	Total amount necessary for the applicant to pay the non-discount share of the services requested on this application AND to secure access to the resources necessary to make effective use of the discounts. (Add Items 25c and 25d.)	\$2,119,892.76
f.	<input type="checkbox"/> Check this box if you are receiving any of the funds in Item 25e directly from a service provider listed on any Forms 471 filed by this Billed Entity for this funding year, or if a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds in Items 25e.	

26. ☒ I certify that all of the schools and libraries or library consortia listed in Block 4 of this application are covered

by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of service. The plans are written at the following level(s):

- a. ☐ an individual technology plan for using the services requested in this application; and/or
- b. ☒ higher-level technology plan(s) for using the services requested in this application; or
- c. ☐ no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.

27. ☒ I certify that I posted my Form 470 and (if applicable) made my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.



28. ☒ I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.

29. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the Billed Entity has not received anything of value or a promise of anything of value, other than services and equipment requested under this form, from the service provider(s) or any representative or agent thereof or any consultant in connection with this request for services.

30. ☒ I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

31. ☒ I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

32. ☒ I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

33. ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity (ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity (ies) listed on this application, that I have examined this request, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of this program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under the Title 18 of the United States Code, 18 U.S.C. Sec. 1001 and civil violations of the False Claims Act.

34. ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

35. ☒ I certify that if any of the Funding Requests on this Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the cost of the contract to eligible and ineligible companies as required by the Commission's rules at 47 C.F.R. Sec. 54.504(g)(1),(2).

36. ☒ I certify that this funding request does not constitute a request for internal connections services, except basic maintenance services, in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. Sec. 54.506(c).

37. ☒ I certify that the non-discounted portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services features on this Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product

constitutes a rebate of some or all of the cost of the supported services.

38. Signature of authorized person

39. Signature Date 1/28/2008

The Americans with Disabilities Act, the Individuals with Disabilities Education Act and the Rehabilitation Act may impose obligations on entities to make the services purchased with these discounts accessible to and usable by people with disabilities.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you owe a past due debt to the Federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 471
P.O. Box 7026
Lawrence, Kansas 66044-7026**

**For express delivery services or U.S. Postal Service, Return Receipt Requested,
mail this form to:**

**SLD Forms
ATTN: SLD Form 471
3833 Greenway Drive
Lawrence, Kansas 66046
(888) 203-8100**

Print

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St. Lucie County School District
BEN 127892
471 # 593337, FRN 1651705
Letter of Appeal
Federal Communications Commission
July 14, 2010

NOTE 2-5 - StLucie_FY11_593337_Appeal-ADL_5-17-10



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2008-2009

May 17, 2010

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 130E
Parsippany, NJ 07054

Re: Applicant Name: ST LUCIE COUNTY SCHOOL DIST
Billed Entity Number: 127892
Form 471 Application Number: 593337
Funding Request Number(s): 1651705
Your Correspondence Dated: April 15, 2010

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2008 Administrator's Decision on Appeal Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1651705
Decision on Appeal: **Denied**
Explanation:

- The April 15, 2010 Letter of Appeal states that the District's efforts to avoid increased cost and reduced bandwidth to many of its schools, while attempting to abide by E-rate rules governing the Form 470/RFP process, has led to a denial of funding. St Lucie CSD requests the Schools and Libraries Division (SLD) reverse its decision to deny funding for FRN 1651705 and approve the originally requested commitment of \$434,199.62.

According to USAC records, St. Lucie County School District cited FCC Form 470 (Application Number: 613270000424954) from FY2002-2003, under St. Lucie County School District on Block 5, Item 12 of the FCC Form 471. On July 21, 2008, the applicant provided a Request for Proposal (RFP), referenced in the Form 470. On July 28, 2008, the applicant provided a 60-month contract, signed

on January 27, 2003, expiring January 26, 2008. On January 28, 2008, the applicant provided the contract extension, signed on November 5, 2007. However, neither the RFP, nor the contract listed a provision for a contract extension. On September 9, 2008, PLA sent the applicant a letter denying this FRN, explaining that Program requires that a new Form 470 be posted for 28 days prior to extending the contract to make potential bidders aware of the applicant's ability to extend the contract beyond its initial term. The applicant was given the opportunity to provide alternate information to support their request by the due date of September 24, 2008. On October 3, 2008, the applicant requested an extension. On October 7, 2008, the applicant provided a new Form 470 (Application Number 568570000480840) with an Allowable Contract Date (ACD) of January 9, 2004, and a State Master contract signed on February 2, 2004, with an expiration date of June 30, 2007. On October 23, 2008, the applicant provided a contract extension for the period of July 1, 2008 through June 30, 2009. PLA accepted this information and changed the Contract Award Date from January 28, 2003 to February 2, 2004 to agree with the applicant documentation. The Service Start Date (SSD) was also changed from July 1, 2008 to October 1, 2008 to agree with the applicant submitted documentation. The Contract Expiration Date (CED) was changed from June 30, 2010 to June 30, 2009 to agree with the applicant documentation. The category of service was changed from Telecommunications to Internet Access in accordance with program rules. The establishing Form 470 was changed to reflect application number 568570000480840 at the request of the applicant. The applicant also submitted a SPIN change request on December 23, 2008 and on January 12, 2009 USAC sent a letter to the applicant explaining that the SPIN change request had been granted as of January 7, 2009.

On appeal, the District stated that they could not be funded under the Florida State Contract because the new service provider cannot provide the service requested under it. The District requested that their original contract input (with regard to the Block 5 submission) be restored as well as the original service provider so that they can receive funding. On January 28, 2010, Program Compliance made initial contact (via preferred method) with the appellant (David Jasa) requesting the originating establishing Form 470 and whether the Contract End Date was based on an extension option/clause in the originating Form 470 or RFP. The appellant was instructed that the request was time sensitive and that a response was expected within fifteen (15) calendar days. The record shows that on February 4, 2010, Program Compliance contacted and reminded the applicant that the requested documentation due date was February 12, 2010. On February 10, 2010, the appellant provided a response. It was determined that the response provided did not bring resolution to the original contract extension violation. St. Lucie County School District failed to provide evidence that the St. Lucie County School District had a valid contract extension.

You have failed to post a new FCC Form 470 prior to extending/modifying your contract for the current funding year. The FCC Form 470 associated with your funding request was previously posted without selecting the "multi-year contract" or "voluntary extensions" option in Block 2, Item 13. Subsequently, a new FCC Form 470 should have been posted to the website prior to extending and/or

modifying your contract to inform potential bidders about the services sought. By not posting a new FCC Form 470 for the changes in your contract, you have violated the competitive bidding requirements of the program. During the appeal review, you did not show that USAC's determination was incorrect.

FCC rules require that except under limited circumstances, an eligible school, library or consortium that includes an eligible school or library shall seek competitive bids for all services eligible for support. See 47 C.F.R. sec. 54.504(a). To help ensure that applicants receive the lowest pre-discount price from the vendors, applicants are required to carefully consider all bids received before entering into an agreement with a selected vendor and submitting an FCC Form 471. See 47 C.F.R. secs. 54.504(b)(2)(vii), (c)(1)(xi), and 54.511(a) and (b). Applicants are required to file a new FCC Form 470 in the current application period if they are applying for discounted services for which a new contract is sought. If an applicant has an existing multi-year contract they may be exempt from the competitive bid requirements set forth. See 47 C.F.R. secs. 54.511(c) and (d). However, if an applicant has a contract with voluntary extensions for which it has filed an FCC Form 470, it cannot extend or renew the contract beyond its original expiration date without posting a new FCC Form 470 and considering all bids received, unless voluntary extensions were indicated in Block 2, Item 13 of FCC Form 470 or in the RFP. See 47 C.F.R. secs. 54.511(c) and (d).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: David Jasa

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 130E
Parsippany, NJ 07054

Billed Entity Number: 127892
Form 471 Application Number: 593337
Form 486 Application Number:

St. Lucie County School District
BEN 127892
471 # 593337, FRN 1651705
Letter of Appeal
Federal Communications Commission
July 14, 2010

NOTE 6 -
StLucie_FY6_470_613270000424954_WAN_app-certfd

FCC Form

Approval by OMB
3060-0806**470**

Schools and Libraries Universal Service Description of Services Requested and Certification Form

Estimated Average Burden Hours Per Response: 4.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this application.

(To be completed by entity that will negotiate with providers.)

Block 1: Applicant Address and Identifications

Form 470 Application Number: 613270000424954
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Applicant's Form Identifier: High Speed WAN

Application Status: CERTIFIED

Posting Date: 11/06/2002

Allowable Contract Date: 12/04/2002

Certification Received Date: 11/06/2002

1. Name of Applicant:		
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ST LUCIE COUNTY SCHOOL DIST		
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2. Funding Year:	3. Your Entity Number
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07/01/2003 - 06/30/2004	127892
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4a. Applicant's Street Address, P.O.Box, or Route Number		
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2909 DELAWARE AVE		
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City	State	Zip Code
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FORT PIERCE	FL	34947-7299
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b. Telephone number	c. Fax number
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(772) 468- 5040	(772) 468- 5059
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d. E-mail Address

jasad@stlucie.k12.fl.us

5. Type Of Applicant

<input checked="" type="radio"/> Individual School (individual public or non-public school)

<input checked="" type="radio"/> School District (LEA;public or non-public[e.g., diocesan] local district representing multiple schools)
--

<input type="radio"/> Library (including library system, library branch, or library consortium applying

as a library)

☒ Consortium (intermediate service agencies, states, state networks, special consortia)

6a. Contact Person's Name: David Jasa

First, fill in every item of the Contact Person's information below that is different from Item 4, above.

*Then check the box next to the preferred mode of contact. (At least one box **MUST** be checked.)*

6b. Street Address, P.O.Box, or Route Number

☒ 2909 DELAWARE AVE

City	State	Zip Code
FORT PIERCE	FL	34947-7299

☒ 6c. Telephone Number (772) 468- 5040

☒ 6d. Fax Number (772) 468- 5059

☒ 6e. E-mail Address jasad@stlucie.k12.fl.us

Block 2: Summary Description of Needs or Services Requested

7 This Form 470 describes (check all that apply):

a. ☐ Tariffed services - telecommunications services, purchased at regulated prices, for which the applicant has no signed, written contract. A new Form 470 must be filed for tariffed services for each funding year.

b. ☐ Month-to-month services for which the applicant has no signed, written contract. A new Form 470 must be filed for these services for each funding year.

c. ☐ Services for which a new written contract is sought for the funding year in Item 2.

d. ☐ A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous program year.

NOTE: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous program year OR a contract signed on/before 7/10/97 and reported on a Form 470 in a previous year as an existing contract do NOT require filing of a Form 470.

What kinds of service are you seeking: Telecommunications Services, Internet Access, or Internal Connections? Refer to the Eligible Services List at www.sl.universalservice.org for examples. Check the relevant category or categories (8, 9, and/or 10 below), and answer the questions in each category you select.

8 ☐ Telecommunications Services

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

a ☒ YES, I have an RFP. It is available on the Web at or via (check one):

☐ the Contact Person in Item 6 or ☐ the contact listed in Item 11.

b ☒ **NO**, I do not have an RFP for these services.

If you answered **NO**, you must list below the Telecommunications Services you seek. Specify each **service or function** (e.g., local voice service) and quantity and/or capacity (e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications Services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Add additional lines if needed.

9 ☐ Internet Access

Do you have a Request for Proposal (RFP) that specifies the services you are seeking?

a ☒ **YES**, I have an RFP. It is available on the Web at or via (check one):

☐ the Contact Person in Item 6 or ☐ the contact listed in Item 11.

b ☒ **NO**, I do not have an RFP for these services.

If you answered **NO**, you must list below the Internet Access Services you seek. Specify each **service or function** (e.g., monthly Internet service) and quantity and/or capacity (e.g., for 500 users). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internet Access services. Add additional lines if needed.

10 ☐ Internal Connections

Do you have a Request for Proposal (RFP) that specifies the services you are seeking?

a ☒ **YES**, I have an RFP. It is available on the Web at or via (check one):

☐ the Contact Person in Item 6 or ☐ the contact listed in Item 11.

b ☒ **NO**, I do not have an RFP for these services.

If you answered **NO**, you must list below the Internal Connections Services you seek. Specify each **service or function** (e.g., local area network) and quantity and/or capacity (e.g., connecting 10 rooms and 300 computers at 56kbps or better). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internal Connections services. Add additional lines if needed.

11 (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the signer of this form.

Name:

Richard Stabile

Title:

Director of Purchasing and Warehousing

Telephone number

(772) 336 - 6980

Fax number

(772) 336 - 6985

E-mail Address

stabiler@stlucie.k12.fl.us

12. ☒ Check here if there are any restrictions imposed by state or local laws or regulations on how or when providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or provide Web address where they are posted and a contact name and telephone number for service providers without Internet access.

Subject to Florida State Law

13. If you intend to enter into a multi-year contract based on this posting or a contract featuring an option for voluntary extensions you may provide that information below. If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, summarize below (including the likely timeframes).

Block 3: Technology Assessment

14. ☒ Basic telephone service only: If your application is for basic local and long distance telephone service (wireline or wireless) only, check this box and skip to Item 16.

15. Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is ONLY for basic telephone service, you must check at least one box in (a) through (e). You may provide details for purchases being sought.

a. Desktop software: Software required ☒ has been purchased; and/or ☒ is being sought.

b. Electrical systems: ☒ adequate electrical capacity is in place or has already been arranged; and/or ☒ upgrading for additional electrical capacity is being sought.

c. Computers: a sufficient quantity of computers ☒ has been purchased; and/or ☒ is being sought.

d. Computer hardware maintenance: adequate arrangements ☒ have been made; and/or ☒ are being sought.

e. Staff development: ☒ all staff have had an appropriate level of training /additional training has already been scheduled; and/or ☒ training is being sought.

f. Additional details: Use this space to provide additional details to help providers to identify the services you desire.

Block 4: Recipients of Service

16. Eligible Entities That Will Receive Services:

Check the ONE choice (a,b or c) that best describes this application and the eligible entities that will receive the services described in this application. You will then list in Item 17 the entity/entities that will pay the bills for these services.

a. ☒ Individual school or single-site library.

b. ☒ Statewide application for (enter 2-letter state code) representing (check all that apply):

- ☐ All public schools/districts in the state:
☐ All non-public schools in the state:
☐ All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here. ☐ If checked, complete Item 18.

c. ☒ School district, library system, or consortium application to serve multiple eligible entities:

Number of eligible sites	40
<i>For these eligible sites, please provide the following</i>	
Area Codes (list each unique area code)	Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces
772	336, 337, 340, 429, 460, 464, 467, 468, 595, 785
If your application includes INELIGIBLE entities, check here. <input type="checkbox"/> If checked, complete Item 18.	

17. Billed Entities

List the entity/entities that will be paying the bills directly to the provider for the services requested in this application. These are known as Billed Entities. At least one line of this item must be completed. Attach additional sheets if necessary.

Entity	Entity Number
ST LUCIE COUNTY SCHOOL DIST	127892

18. Ineligible Participating Entities

Does your application also seek bids on services to entities that are not eligible for the Universal

Service Program? If so, list those entities here (attach pages if needed):

**Ineligible Participating
Entity**

Area Code

Prefix

Block 5: Certification and Signature

19. The applicant includes:(Check one or both)

- a. ☐ schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).

20. All of the individual schools, libraries, and library consortia receiving services under this application are covered by:

- a. ☐ individual technology plans for using the services requested in the application, and/or
- b. ☐ higher-level technology plans for using the services requested in the application, or
- c. ☐ no technology plan needed; application requests basic local and/or long distance telephone service only.

21. Status of technology plans (if representing multiple entities with mixed technology plan status, check both a and b):

- a. ☐ technology plan(s) has/have been approved by a state or other authorized body.
- b. ☐ technology plan(s) will be approved by a state or other authorized body.
- c. ☐ no technology plan needed; application requests basic local and long distance telephone service only. .

22. ☐ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.

23. ☐ I recognize that support under this support mechanism is conditional upon the school(s) or library(ies) I represent securing access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to use the services purchased effectively.

24. ☐ I certify that I am authorized to submit this request on behalf of the above-named entities, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. Signature of authorized person: ☐

26. Date (mm/dd/yyyy): 11/06/2002
27. Printed name of authorized person: David Jasa
28. Title or position of authorized person: MIS Director
- 29a. Address of authorized person:
City: State: Zip:
- 29b. Telephone number of authorized person: (772) 468 - 5040
- 29c. Fax number of authorized person: 0
- 29d. E-mail address number of authorized person:

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

Service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests. For more information, refer to the "Service Provider Role in Assisting Customers" at www.sl.universalservice.org/vendor/manual/chapter5.doc or call the Client Service Bureau at 1-888-203-8100.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator, 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 470
P.O. Box 7026
Lawrence, Kansas 66044-7026
1-888-203-8100**

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

**SLD-Form 470
c/o Ms. Smith
3833 Greenway Drive
Lawrence, Kansas 66046
1-888-203-8100**

FCC Form 470
May 2003

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[Return To Search Results](#)

St. Lucie County School District
BEN 127892
471 # 593337, FRN 1651705
Letter of Appeal
Federal Communications Commission
July 14, 2010

NOTE 7 - Form 470 2002-2003 Instructions

**Schools and Libraries Universal Service
Description of Services Requested and Certification Form**

Estimated Average Burden Hours Per Response: 4 hours

**Instructions for Completing the
Schools and Libraries Universal Service
Description of Services Requested and Certification Form (FCC Form 470)****CONTENTS**

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IV.	Reminders	page 15

NOTICE TO INDIVIDUALS

Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries requesting universal service discounts to file—individually, or as a district or system, or as a consortium—this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator, which is the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC). 47 C.F.R. § 54.504. For purposes of this form, the universal service administrator will be referred to as the “SLD” or “Fund Administrator.” The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data collected in Form 470 will be used to ensure that schools and libraries and any consortia they comprise comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of any statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding.

If you owe a past due debt to the Federal government, the taxpayer identification number (such as your social security number) and other information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

If you do not provide the information requested on this form, the processing of your application may be delayed or your application may be returned to you without action.

The foregoing Notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, December 31, 1974, 5 U.S.C. § 552, and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, *et seq.* An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public reporting burden for this collection of information is estimated to average four hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden, to the Federal Communications Commission, Performance Evaluation and Records Management Branch, Washington, D.C. 20554.

I. INTRODUCTION

On May 7, 1997, the Commission adopted rules providing discounts on all telecommunications services, Internet access, and internal connections, referred to hereinafter as "eligible services" for all eligible schools and libraries (K-12 public and private schools and all public libraries). The Fund Administrator (the Schools and Libraries Division of the Universal Service Administrative Company) will ensure that the information is disseminated in a manner likely to attract competing providers. To initiate the competitive process, begin by filing this form with the Schools and Libraries Division (SLD), which will post it for at least 28 days to fulfill the competitive bidding requirement. Schools and libraries may sign new contracts for services eligible for discounts 28 days after the descriptions set forth in Form 470 are posted on the SLD Web Site <www.sl.universalservice.org>. The SLD will notify the applicant of the date that the applicant's request is posted and the date on which the 28-day waiting period ends. Those with questions about this application may call toll-free 888-203-8100.

II. FILING REQUIREMENTS AND GENERAL INSTRUCTIONS

A. Who Must File

All schools and libraries, or consortia acting on behalf of schools and libraries, requesting discounts on eligible services pursuant to the universal service discount mechanism must file Form 470. The entity that will negotiate with potential service providers should complete Form

470. For example, if a school district negotiates with potential service providers on behalf of the schools in the district, an authorized person from the district should complete the form. Similarly, if a regional entity negotiates on behalf of a number of school districts, an authorized person for that regional entity should complete this form.

For purposes of the universal service discount mechanism, schools must meet the statutory definition of elementary and secondary schools found in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 8801(14) and (25). An elementary school is "a non-profit day or residential school that provides elementary education, as determined under state law." 47 C.F.R. § 54.500(a). A secondary school is "a non-profit day or residential school that provides secondary education, as determined under state law. A secondary school does not offer education beyond grade 12." 47 C.F.R. § 54.500(j). In addition, eligible elementary and secondary schools may not have endowments exceeding \$50 million. 47 C.F.R. § 54.501(b)(3).

Libraries must meet the statutory definition of library or library consortium found in the Library Services and Technology Act, Pub. L. No. 104-208, sec. 211 *et seq.*, 110 Stat. 3009 (1996) (LSTA) and must be eligible for assistance from a state library administrative agency under that Act. A library includes: "(1) a public library; (2) a public elementary school or secondary school library; (3) an academic library; (4) a research library, which for the purposes of this definition means a library that: (i) makes publicly available library services and material suitable for scholarly research and not otherwise available to the public; and (ii) is not an integral part of an institution of higher education; and (5) a private library, but only if the state in which such private library is located determines that the library should be considered a library for purposes of this definition." 47 C.F.R. § 54.500(d). A library's eligibility for universal service funding also depends on its funding as an independent entity. **Only libraries whose budgets are completely separate from any schools' (K-16) are eligible to receive discounted services** under the universal service support mechanism. 47 C.F.R. § 54.501(c)(2). For example, an elementary school library would only be eligible to receive discounted services if its budget were completely separate from the elementary school. If its budget were not completely separate from the elementary school, the elementary school library would not be eligible for support independent from the school with which it is associated, although it would be eligible to share in the benefits of the support secured by the elementary school.

A library consortium is "any local, statewide, regional, or interstate cooperative association of libraries that provides for the systemic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries." 47 C.F.R. § 54.500(e).

B. When, Where, and How Many Forms 470 to File

Beginning with the application process for Funding Year 2000 (July 1, 2000 through June 30, 2001), you are required to file Form 470 in the current application period only if you are applying for discounts for one of the following types of services:

tariffed services (telecommunications services purchased at regulated rates) for which you do not have a signed, written contract (a Form 470 must be filed for these services each year);

- month-to-month Internet access, cellular services, or paging services for which you do not have a written contract but for which your standard monthly bills are proof of a binding, legal arrangement (a Form 470 must be filed for these services each year);
- any services for which you seek a new contract; or
- any multi-year contract signed on or before July 10, 1997, but for which you have not before filed a Form 470 in any previous program year.

The precise timeframe for filing Form 470 depends on the kind of service you are seeking:

- For tariffed telecommunications services or month-to-month services, Form 470 can be filed no earlier than July 1 of the year preceding the funding year for which you are applying (for example, July 1, 2000 for the funding year beginning July 1, 2001), as long as it is at least 28 days before you file Form 471.
- For contract services for which you are seeking a new contract for the coming funding year, you may file Form 470 whenever you wish to begin your procurement process, as long as it is at least 28 days before you file Form 471.
- For a contract signed on or before July 10, 1997, for which no Form 470 has ever been filed, you may file a Form 470 at any time, as long as it is at least 28 days before you file Form 471.
- For multi-year contracts signed pursuant to the posting of a Form 470 in a previous funding year, you will not need to file a new Form 470 for the upcoming funding year. Your 28 days began with the date of your original Form 470 posting.

Services that are covered by a **qualified existing contract** for all or part of the funding year do not require filing of Form 470, since you are not seeking bids for these services. A qualified existing contract is:

- a signed, written contract executed pursuant to the posting of a Form 470 in a previous funding year, OR
- a contract signed on or before July 10, 1997 and reported on a Form 470 in a previous year as an existing contract.

If you are seeking support for eligible services not covered by a qualified, existing contract, you must file Form 470 either electronically at the SLD Web Site, <www.sluniversal.org>, or at the address listed at the bottom of the form (SLD-Form 470, P.O. Box 7026, Lawrence, Kansas 66046-7026). For express delivery or U.S. Postal Service Return Receipt Requested, send to: SLD-Form 470, c/o Ms. Smith, 3835 Greenway Drive, Lawrence, Kansas 66046, phone (888) 203-8100. **DO NOT FILE THIS OR ANY OTHER UNIVERSAL SERVICE FORM WITH THE FEDERAL COMMUNICATIONS COMMISSION.**

You may file one Form 470 for all of the services for which you are required to file Form 470, or you may file separate Forms 470 for each type of service. Also, an individual school or library may be covered by more than one Form 470 filed by different consortia for different services.

Once you file your Form 470, it is posted to the SLD Web site for competitive bidding. Your form must be posted for at least 28 days on the SLD Web Site before you can sign a contract or enter into an agreement for services. After you sign a contract or enter into an agreement, you (or the billed entities you represent) can initiate the next step in the application process, the filing of FCC Form 471. Upon processing or posting of the Form 470, the SLD will notify you of the date upon which you may sign a contract or enter into an agreement for new services or file Form 471. 47 C.F.R. §54.504(b)(3). This date will be referred to as the "Allowable Contract Date."

C. Assistance in Completing This Form

There are several sources of assistance to guide you in completing this form. If you complete this form electronically online at the SLD Web Site <www.sl.universalservice.org>, you will be assisted in the process by special step-by-step online instructions and help screens. Whether you file online or on paper, you are urged to consult the Reference Area of the SLD Web site, <www.sl.universalservice.org>, for guidance in completing this form. Those without Web access may obtain similar guidance material via the SLD's toll-free fax-on-demand service, 800-959-0733. Further information is available from the SLD Client Service Bureau via toll-free telephone at 888-203-8100; via e-mail at question@universalservice.org; or via fax at 888-276-8736.

D. Compliance

Schools and libraries filing false information are subject to penalties for false statements, including fine or imprisonment, under Title 18 of the United States Code, 18 U.S.C. § 1001. Applicants should retain the worksheets and other records they use to compile these forms for five years. Thus, if applicants represent multiple entities, collect data from those entities, and add up that data, they should retain those data sheets for five years. If an applicant is audited, it should be able to demonstrate to the auditor how the entries in its application were provided.

III. SPECIFIC INSTRUCTIONS

You are encouraged to complete this form electronically, online. The Form is available on the SLD Web Site at <www.sl.universalservice.org>, accompanied by instructions for filing online using the Web Site. If you file manually, using paper copies of the application, please type or clearly print in the spaces provided and attach additional pages if necessary. No Forms 470 will be accepted if sent via e-mail or fax.

A. Top of Form

The data at the top of Form 470 will help both you and SLD to identify each particular Form 470 you file.

"Do Not Write In This Area"—The SLD uses this space to apply a barcode to your form upon receipt, so that we can properly track and archive your form.

Applicant's Form Identifier—If you are filing more than one Form 470, please use this space to assign a number or letter of your own devising to facilitate communication with us about THIS particular Form 470. This Applicant's Form Identifier can be very simple; for example, if you are filing three Forms 470, you might label them "A," "B," and "C." The Applicant's Form Identifier can also be descriptive, such as "School Internet." Create identifiers that suit your own record-keeping needs.

Form 470 Application Number - The SLD will insert your Form 470 Application Number (known in previous years as the "Universal Service Control Number"). Leave this item blank.

Top of each page after page 1: If you are filing this application manually, to help alleviate problems caused if the pages of an application become separated, please provide the Entity Number (from Item 3, below), your Applicant's Form Identifier, and name and phone number of the contact person (from Item 6, below) at the top of each page of the application in the space provided. If you are filing electronically, this information will automatically appear at the top of each page.

B. Block 1: Applicant Address and Identifications

Block 1 of Form 470 asks you for your address and basic identifications. Throughout this form, "you" refers to "the applicant" – a school or library, or an entity filing on behalf of schools and libraries.

Item (1) – Provide the name of your organization. You may be an individual school, a school district, a library, library system, library consortium, city, state, consortium or other entity created solely to participate in this universal service discount mechanism.

Item (2) – Funding years begin on July 1 and end on June 30 each year. For example, Funding Year 2000 runs from July 1, 2000 to June 30, 2001. Provide the funding year for which you are applying for funds by filling in the appropriate year in the blanks provided (e.g., July 1, 2000 through June 30, 2001).

Item (3) – Your Entity Number is a unique number (known to some applicants in previous years as Billed Entity Number) assigned to your organization or institution by the SLD as a means of identifying you every time you file an application or otherwise communicate with us. If you have ever applied for universal service funds in previous years, or been part of someone else's application, you have already been assigned an Entity Number. If you do not have a record of your Entity Number, or if you have never been assigned such a number, please call the SLD Client Service Bureau at 888-203-8100.

Item (4) – Provide your organization's full mailing address, whether a street address, Post Office Box number, or route number, your telephone and fax numbers (including area code), and e-mail address (if you have one). If possible, please use a street address so that, if it becomes necessary, we can reach you via express delivery.

Item (5) – Check the box that best describes you. A "library consortium" refers to a library consortium as defined in the Library Services and Technology Act. See section II.A of these instructions, above. If you are ordering services as a consortium of schools, libraries, or other entities (other than a library consortium, as defined by the LSTA), you should check the fourth box.

Item (6) – Provide the name of the person who should be contacted with questions about the application. This person should be able to answer questions regarding the information included on this form and the services you request, including how to obtain a copy of your request for proposal (RFP), if you have prepared one. If the contact person's address, phone number, fax number, or e-mail address is different from those specified for the applicant (completed in Item (4)), please provide that information here. You **MUST** then check the preferred mode of contact.

C. Block 2: Summary Description of Needs or Services Requested

Block 2 of Form 470 asks you to describe the services you desire.

Item (7) – Specify here the kind(s) of services requested in this Form 470. You may check one or more of these choices, depending on the range of services you will be including on one Form 470.

Item (7)(a) – Check this box if this Form 470 requests services which are tariffed (telecommunications services for which you do not have a signed, written contract). These services require posting of a Form 470 for each funding year, no earlier than July 1 of the previous year (for example, July 1, 2000 for the funding year that begins July 1, 2001).

Item (7)(b) – Check this box if this Form 470 requests Internet access, cellular service, or paging services provided on a month-to-month basis without a written contract. These services require posting of a Form 470 for each funding year, no earlier than July 1 of the previous year (for example, July 1, 2000 for the funding year that begins July 1, 2001).

Item (7)(c) – Check this box if this Form 470 seeks new services for which you wish to sign a new contract. You may file a Form 470 for a new contract at any time.

Item (7)(d) – Check this box if this Form 470 describes services provided under a multi-year contract that was signed on or before July 10, 1997 but that was never featured on a Form 470 in previous program years. For example, if you are applying for the E-rate for the very first time for Funding Year 2000-2001, and some or all of your services are provided under a written 10-year contract which was signed on July 1, 1997, you will need to file a Form 470 for this contract. In future years, for as long as that contract remains in force, you will not need to file a Form 470 for those services. There is no required timeframe for filing a Form 470 for this purpose.

Items (8-10) – All applicants should fill out Items (8-10) to provide potential bidders with particular information about the services you are seeking. Please refer to the Eligible Services Matrix and any Addenda at <www.sl.universalservice.org> or via toll-free fax-on-demand at 800-959-0733 for information about eligible categories and types of services. Once you check the relevant box (es) in Items (8), (9), or (10), you must choose either (a) or (b) under the selected item and complete as requested. **YOU NEED CHECK-OFF AND COMPLETE ONLY THE CATEGORIES RELEVANT TO YOUR REQUEST FOR SERVICES.**

The specific data requested in Items (8-10) are sought only to provide potential service providers with information so that they may contact you for detailed information on your specific requirements. **This requirement is not intended to restrict your ability to contract for whatever technologies best meet your educational purposes as authorized by FCC rules and the Telecommunications Act of 1996.** It is important that you complete all categories that are relevant to your requested services, so that the Fund Administrator can confirm that you have met the competitive bidding requirement before signing any contracts for services for which discounts are requested in FCC Form 471.

Item (8) – Check this Item if you are seeking telecommunications services to be provided by one or more telecommunications services providers. **Important note: Only telecommunications services providers who are common carriers (meaning they provide their services for a fee to the general public) are eligible providers of telecommunications services. If you receive telecommunications services from a provider that is not a common carrier, your Form 471 Funding Request for such services will be denied.** Telecommunications is the transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received. 47 U.S.C. § 153(43), 47 C.F.R. § 54.5. All commercially available telecommunications services are eligible for support under the universal service discount mechanism. 47 C.F.R. § 54.502. For example, local and long distance telephone services are generally considered telecommunications services. As another example, high-speed transmission lines over the public switched telecommunications network leased from a telecommunications provider would be listed here as a telecommunications service.

Item (8)(a) – Check this box if you have a Request for Proposal (RFP) that will provide potential bidders with specific information about the particular telecommunications services or functions you are seeking, and what quantity or capacity of services you seek. For example, you might have an RFP for voice services that specifies "local and long distance voice services sought for 20 existing phone lines, plus 10 new additional lines." If you check (8)(a), you must indicate where this RFP is available, such as on your Web Site (list the Web address here); via the Contact Person listed in Item (6); and/or via the alternative contact person listed in Item (11). If the RFP is not posted on a Web site, your designated contact person must be able to provide it to service providers on request as of the date that your Form 470 is posted.

Item (8)(b) – Check this box if you do NOT have a Request for Proposal (RFP) prepared for potential service providers to consult for specific details about the telecommunications services

you seek. If you check (8)(b), you must fill in details in the space provided about the specific telecommunications services/functions and quantity/capacity of service. For example, you might list "videconferencing services" under Service/Function, and "for three school buildings" under Quantity/Capacity.

Item (9) – Check this item if you are seeking Internet access services. Basic conduit non-content access to the Internet is eligible for support under the universal service discount program. 47 C.F.R. § 54.5. Such access may be via dial-up and/or direct, dedicated connection (such as T-1 or 56 kbps service).

Please note that while schools and libraries may obtain universal service discounts on access to the Internet, discounts are not available on the separate charges for particular proprietary content or other information services or on a bundled package of access and content, unless the bundled package includes minimal content and provides a more cost-effective means of securing access to the Internet than either non-content alternatives.

Item (9)(a) – Check this box if you have a Request for Proposal (RFP) that will provide potential bidders with specific information about the particular Internet access services or functions you are seeking, and what quantity or capacity of services you seek. For example, you might have an RFP for Internet access that specifies "high-speed direct access to the Internet sought for 10 public Internet stations in one library facility." If you check (9)(a), you must indicate where this RFP is available, such as on your Web Site (list the Web address here), via the contact person listed in Item (6); and/or via the alternative contact person listed in Item (11). If the RFP is not posted on a Web site, your designated contact person must be able to provide it to service providers on request as of the date that your Form 470 is posted.

Item (9)(b) – Check this box if you do NOT have a Request for Proposal (RFP) prepared for potential service providers to consult for specific details about the Internet access services you seek. If you check (9)(b), you must fill in details in the space provided about the specific Internet access services/functions and quantity/capacity of service. For example, you might list "monthly Internet service" under Service/Function, and "for 500 student users" under Quantity/Capacity. A given service is generally eligible for support under the universal service discount mechanism as a component of internal connections if it is necessary to transport information within one or more instructional buildings of a single school campus or within one or more non-administrative buildings that comprise a single library branch. 47 C.F.R. § 54.5(b). For example, routers, hubs, network file servers and network operating software are eligible for discounts as components of internal connections. Computers, modems, fax machines, video monitors, and other equipment used in classrooms or throughout a library (at the endpoints of the communications network) are not eligible for discounts.

Item (10)(a) – Check this box if you have a Request for Proposal (RFP) that will provide potential bidders with specific information about the particular internal connections services or functions you are seeking, and what quantity or capacity of services you seek. For example, you

might have an RFP for internal connections that specifies "local area network to connect 30 classrooms." If you check (10)(a), you must indicate where the RFP is available, such as on your Web Site (list the Web address here); via the contact person listed in Item (6); and/or via the alternative contact person listed in Item (11). If the RFP is not posted on a Web site, your designated contact person must be able to provide it to service providers on request as of the date that your Form 470 is posted.

Item (10)(b) – Check this box if you do NOT have a Request for Proposal (RFP) prepared for potential service providers to consult for specific details about the internal connections services you seek. If you check (10)(b), you must fill in details in the space provided about the specific internal connections services/functions and quantity/capacity of service. For example, you might list "Private Branch Exchange equipment" under Service/Function, and "for each of 10 outlets in library system" under Quantity/Capacity.

Item (11) – As an option, provide the name and contact information of a person on your staff or project who can provide additional technical details and other information about your services to vendors seeking to bid. This need not be the same person listed as the contact person in Item (6) for the entire application, nor the authorized signer in Item (25).

Item (12) – Indicate whether you are subject to any state or local restrictions regarding how and when you may be contacted by potential providers and what bidding procedures they must follow. For example, state bidding requirements might prohibit contacts between bidders and buyers between the time an official RFP is issued and when bids are due, or they may allow only written contacts. Applicants must comply with any applicable state or local requirements when participating in the competitive bidding process used in the universal service discount mechanism. If you are subject to any state or local restrictions, you must check the box in Item (12) and provide a description of the restrictions or procedures. Alternatively, you may list a Web Site where state or local restrictions can be found and the name and telephone number for a contact person who can provide the state or local restrictions AND the applicable bidding procedures to service providers without Internet access.

Item (13) – You may provide information on your plans to purchase additional services in future years. This information may encourage service providers to contact you even when you may not represent a financially attractive customer in the near term, but you may represent a financially attractive customer over a longer period of time. Providing this information is optional.

D. Block 3: Technology Assessment

Block 3 of Form 470 asks you to provide an assessment of the technologies that you will need to use the services you request by checking off the appropriate boxes, unless you are only seeking support for basic voice telephone service.

Item (14) – Check this item if you are seeking support **ONLY** for basic voice telephone service. If you check Item (14), you should skip Item (15) and go to Item (16).

Items (15)(a) – (15)(e) – All of the services and facilities listed in Items (15a-15e) are ineligible for support under the universal service discount mechanism. Each of the services and facilities listed, however, is necessary to make effective use of the telecommunications services, Internet access, and internal connections that are eligible for discounts. You do not need to certify that you have already secured all of the technologies needed to use your discounted services effectively until you file FCC Form 471, but Items (15a-15e) require you to assess the technologies that you have or will need. You must check off at least one box for each of the Items (15a-e). You may check off both boxes in each case if both apply. When you file Form 471, which is required to receive discounts, you will need to certify that you have secured or budgeted to secure adequate amounts of those resources to utilize effectively the services requested.

If you are seeking to purchase any of the services or facilities indicated in Items (15a-15e), you may also provide additional details in Item (15f) to help providers of desired technologies or services contact you with bids. **If you are purchasing such ineligible services and facilities, however, you should try to do so through contracts separate and apart from those used to purchase services eligible for universal service discounts, to avoid confusion when completing and submitting your Form 471 application for services ordered.**

Item (15)(a) – Indicate whether you have secured or are in the process of securing access to the necessary software for the desktop computers that will use eligible services. For example, computers that will be connected to the Internet will probably need Web browsers. You should note that, although the software for the computers used in classrooms and other endpoints is not eligible for support, the software necessary to operate the networks used to transport information to the classroom is an eligible service.

Item (15)(b) – Confirm that you have or are securing access to sufficient electrical capacity to handle the computers and other telecommunications-related facilities you will be using to access the discounted services.

Item (15)(c) – Confirm that you have purchased or are arranging to purchase sufficient numbers of computers to use the discounted services effectively. Applicants should note that, as with computer software, while the computers used in classrooms are not eligible for discounts, those used as network file servers would, generally, be eligible for support.

Item (15)(d) – Confirm that you have secured or are attempting to secure appropriate maintenance for your computer hardware.

Item (15)(e) – Confirm that you have arranged for or are arranging to secure the staff development necessary to use the discounted services effectively.

Item (15)(f) – Use this space to provide additional details to help providers identify the services you desire.

E. Block 4: Recipients of Service

Block 4 requires you to provide information about the entities that will receive services described in Block 2. This information is required to help service providers understand the scope and location(s) of the services you seek, so that they may respond efficiently and effectively. If you are filing your Form 470 electronically online, please review the online instructions for completing this information.

Item (16) – Check the one choice — (a), (b), or (c) — that most accurately describes your application and the eligible entities that will receive the services you are seeking in this Form 470, then provide additional information as requested. An entity is an eligible entity if it meets the eligibility criteria for obtaining discounts. Please refer to Section II.A. above for more information about eligible entities.

Item (16)(a) – Select this Item if you are an individual school or a single-site library located at the address in Item (1). Checking this box will confirm for potential bidders that all the services you seek will be delivered to this address.

Item (16)(b) – Select this Item if yours is a statewide application representing ALL entities of a particular type in your state. If you check Item (16)(b), you must also select one or more of the three choices provided in this item: all public schools/districts in the state, all non-public schools in the state, and/or all libraries in the state. This will indicate to potential service providers the complete breadth of your service needs. Please note that if your application represents SOME but not ALL of any of these three types of entities, you should NOT select Item (16)(b), but must choose and complete Item (16)(c) instead.

Item (16)(c) – Select this Item if you are a school district, library system, or consortium serving multiple sites. If you check Item (16)(c), you must specify the number of eligible entities that your application represents. You must then list each unique area code represented in the telephone numbers of the entities you represent, plus the three-digit prefixes (the first three digits of the phone number) associated with each area code among the entities you represent. For example, if your school district is in the state of Idaho, which has one statewide area code, you would list that area code once. You would then list each unique three-digit prefix represented among the telephone numbers of the schools and administrative buildings in your district. This information helps service providers pinpoint the location of each facility that will be receiving service.

Item (17) – List here the entity or entities that will be paying bills for the services requested in this application. Such entities are known as “billed entities,” and are the filers of Form 471. Please list these billed entities, whether or not they themselves are eligible for universal service discounts, and provide their Entity Numbers. For example, if you are a consortium of school districts joining together to aggregate demand and thus secure a better price on telecommunications services that each district will then contract for and pay for individually, you will need to list your member districts in Item (17). As another example, if you are a library whose bills are paid by the municipal government, you should list the municipal government office here. List each entity’s name in Column 1, and its Entity Number in Column 2. If, however, your application is statewide as indicated in Item (16)(b), then enter only one billed entity from your state. If you need help identifying Entity Numbers for each of these “billed entities,” call 888-203-8100.

Item (18) – List the names of any consortium members that are not eligible to receive universal service discounts under the schools and libraries universal service support mechanism. Only eligible schools and libraries may receive discounted services, so if the consortium includes entities such as health care providers, governmental entities, or private sector entities, you must list these entities in Item (18). For each ineligible entity, provide the area code and three-digit prefix to help service providers pinpoint the entity’s location. If your application is statewide, as indicated in Item (16)(b), only one area code and prefix for each named entity is required.

F. Block 5: Certifications and Signature

Block 5 requires you to certify certain information to ensure that only eligible entities receive support under the universal service discount mechanism.

Item (19) – Certify that you are an eligible school or library.

Item (19)(a) - If your application is on behalf of one or more schools and all of the information in Item (19)(a) is true of those schools seeking to receive discounted services, you should check the box in Item (19)(a). If your application is on behalf of one or more schools and any of the information in Item (19)(a) is not true for the schools seeking to receive discounted services, those schools are not eligible to receive support under the universal service discount mechanism, and you should not check this box.

Item (19)(b) - If your application is on behalf of one or more libraries or library consortia and all of the information in Item (19)(b) is true of the libraries seeking to receive discounted services, you should check the box in Item (19)(b). If your application is on behalf of one or more libraries or library consortia and any of the information is not true for the libraries or library consortia seeking to receive discounted services, those libraries or library consortia are not eligible to receive support under the universal service discount mechanism, and you should not check this box.

Items (20) and (21) concern the technology plans that must be prepared before schools and libraries may receive discounted services under the universal service support mechanism. The only schools and libraries that do not have to comply with the technology plan requirement are those requesting support for **ONLY** basic voice telephone service (including local and long distance services). Note also that consortia and some other billed entities do not have to be covered by technology plans as long as all of the schools and libraries that they represent are covered by technology plans.

Item (20) – Check the box that best describes the level of technology plan that covers the schools, libraries, and library consortia represented by your application.

- **Item (20)(a)** – Check here if the entities are covered by individual technology plans for the services requested in your application.
- **Item (20)(b)** – Check here if the entities are covered by a higher-level, multi-entity technology plan, such as a school district or library system plan. Statewide technology plans are not acceptable.
- **Item (20)(c)** – Check here if your application is **ONLY** for basic telephone service (local and long distance voice service, wireline or wireless), in which case no technology plan is required.

Item (21) – Indicate the status of your technology plan(s):

- **Item (21)(a)** – Check here if your plans have been approved. **NOTE:** Technology plans that have been approved for other purposes, e.g., for participation in Federal or state programs such as "Goals 2000" and the Technology Literacy Challenge, will be accepted without need for further independent approval.
- **Item (21)(b)** – Check here if you are currently seeking approval of your technology plan(s). Please note that the SLD does not review technology plans itself, but does certify authorized reviewers of technology plans. If you need assistance identifying a **certified approver for your** technology plan, please call 888-203-8100.
- **Item (21)(c)** – Check here if your application is **ONLY** for basic telephone service (local and long distance voice service, wireline or wireless), in which case no technology plan is required.

Item (22) – Certify that services you order pursuant to the universal service discount mechanism must and will be used for educational purposes only and that the services will not be sold, resold, or transferred in consideration for money or any other thing of value.

Item (23) – Certify that you recognize that any support received under this mechanism is conditional upon the ability of your school(s) or library (ies) to secure access to all of the resources, including computers, training, software, maintenance, and electrical connections, necessary to use effectively the services that will be purchased under this mechanism. On FCC Form 471, you will need to certify that you have access to such funding.

Item (24) requires the person authorized to complete Form 470 to certify to the accuracy of the form.

Items (25) – (29) – The authorized person must sign the form (using an original ink signature) and provide the signature date, printed name, title, and telephone number.

For applicants filing electronically online:

- When you have completed this form, but before you select the "submit" button at the bottom of Block 5, use your browser to print each page of the application so that you may retain this copy for your records. If you do not print each page of the application before you "submit," you will NOT have a record of your application.
- You MUST print the Block 5 Certification and submit the signed Certification to the SLD. When you print Block 5 using the browser, the form will automatically include your Form 470 Application Number, Applicant Name, and Applicant Address. Mail the signed Block 5 Certification to: **SLD-Form 470, P.O. Box 7026, Lawrence, Kansas 66044-7026**. For express delivery or U.S. Postal Service Return Receipt Requested, send to: **SLD-Form 470, c/o Ms. Smith, 3833 Greenway Drive, Lawrence, Kansas 66046, phone (888) 203-8100.**
- If you have submitted Form 470 electronically but have problems printing Block 5, you may complete and submit by mail page 1 AND page 5 of a paper copy of Form 470. Do NOT fill out the entire paper application as a duplicate of what you have just submitted electronically. Make sure that you put your Form 470 Application Number on the top of page 1 and page 5.

For applicants filing this form manually:

After the authorized person signs Item (25) with an original ink signature, check to be certain that all other required items—including Items (26)–(29)—are properly completed. Make a copy of your entire form to keep for your records. Then submit your original form by mail to: **SLD-Form 470, P.O. Box 7026, Lawrence, Kansas 66044-7026**. For express delivery or U.S. Postal Service Return Receipt, send to: **SLD-Form 470, c/o Ms. Smith, 3833 Greenway Drive, Lawrence, Kansas 66046, phone (888) 203-8100**. **No Forms 470 will be accepted via e-mail or fax.**

IV. REMINDERS

- All schools and libraries seeking universal service support for ANY service not covered by a qualified existing contract (i.e., a contract executed pursuant to Form 470 posted in prior program years OR a contract signed on or before July 10, 1997 and identified as pre-existing in a Form 470 filed in prior years) must file Form 470 individually or be included in a consortium that files Form 470. Services that must be represented in an individual or consortium Form 470 in order to qualify for universal service support include: eligible tariffed telecommunications services; month-to-month services provided without a signed, written contract; new services for which a contract is sought; or services provided under a multi-year contract signed on or before July 10, 1997, but not previously identified as an existing contract in a Form 470 filed in a prior program year.
- Beginning with the application period for Funding Year 2000-2001, a Form 470 will NOT be required for services covered by a qualified existing contract (i.e., a contract executed pursuant to Form 470 posted in prior program years OR a contract signed on or before July 10, 1997 and identified as pre-existing in a Form 470 filed in prior years).
- Provide data for all items that apply. For the items that do not apply, fill in "N/A." Attach additional sheets if necessary. Any attachments to Form 470 should be clearly labeled with your Entity Number, Contact Person Name, and Phone Number.
- If you are developing or have developed a Request for Proposal (RFP) for the services requested in this Form 470—and have checked (a) under Items (8), (9), and/or (10)—your RFP must be available to service providers via a Web site or your designated contact person as of the date that this Form 470 is posted on the SLID Web site.
- The individual authorized to order telecommunications and other supported services for the school, school district, library, or library consortium must sign and date Form 470. This signature certifies that the information submitted on Form 470 is accurate.
- If you are filing Form 470 **electronically**, online, you must submit the signed certification page with an original **ink signature BY MAIL** (see instructions for Items (25)-(29)). Although your Form 470 is posted as soon as you click "Submit," it will not be considered complete until your paper certification has been received.

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FCC Form 470

Universal Service Program Description of Services Requested and Certification Form



FCC Form

Approval by OMB
3060-0806**470**

Schools and Libraries Universal Service Program Description of Services Requested and Certification Form

At this point you have filled in all information for the Form 470 application. The final steps in the process are to:

- a. **Verify** a final time that all information is correct in each block you have completed. Use the "Previous" button at the bottom of each screen to review your work.
- b. **Use your browser to print** a copy of each screen in each block. Use the "Previous" and "Submit" buttons at the bottom of each screen to move to each block of the Form 470. In each block, click on your browser's "File" button, and select the "Print" option. Please note there are multiple screens for Blocks 2-4.
- c. **Click the "Submit" button** at the bottom of this screen to electronically submit your Form 470 to the SLD.

IMPORTANT NOTE: by clicking "Submit" you are simultaneously releasing your completed application to the SLD for posting, AND viewing a complete version of your Block 5 which you will enter your User ID, SLD PIN into and submit Block 5 with your electronic signature to the SLD (see "d" below). Clicking "Submit" will prevent any further changes to the application. Please be sure that you are satisfied that all entries to the application are correct and you are fully authorized to release this form for posting and that you have obtained a PIN from the SLD before clicking "Submit" on this page.

You must click "Submit" to file your Form 470 and begin the required 28-day posting period. If you do not click "Submit," you MAY NOT file a Form 471 pursuant to a Form 470.

- d. **After clicking the "Submit" button**, you will view the electronic certification screen of Block 5. On this page you will enter the User ID that you created when requesting your PIN from the SLD, and your SLD PIN. If you do not have a PIN, do not continue with this electronic certification process.
- e. **Print out (using your browser) this Block 5 certification page.** When you print Block 5 using your browser, the form will automatically include your Form 470 Application Number, Applicant Name, and Applicant Address. Please save a copy for your own record.

Note: Do not mail any part of the complete Form 470.

Note: When you click the "Submit" button, you are irreversibly submitting this Form 470 to the SLD. You should be authorized and possess an SLD PIN to select the "Submit" button which irreversibly files

this application.

<< Previous

Submit

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Schools and Libraries Division.

St. Lucie County School District
BEN 127892
471 # 593337, FRN 1651705
Letter of Appeal
Federal Communications Commission
July 14, 2010

NOTE 8, 13-15 - Aberdeen_470_errors_5-8-07

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Application for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Aberdeen School District)	File No. SLD-297249, <i>et al.</i>
Aberdeen, WA, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: April 18, 2007

Released: May 8, 2007

By the Commission:

I. INTRODUCTION

1. In this Order, we grant 62 appeals and deny one appeal of decisions by the Universal Service Administrative Company (USAC) concerning applications for discounted services under the schools and libraries universal service mechanism (also known as the E-rate program).¹ As explained below, we find that, for 34 applicants that made ministerial or clerical errors on forms that were timely submitted, good cause exists to waive section 54.504(c) of the Commission's rules, which requires applicants to submit a completed FCC Form 471 to USAC.² We also find that, for 28 applicants, good cause exists to waive section 54.504(b)(4) of the Commission's rules, which states that applicants must wait 28 days after their FCC Form 470 is posted to USAC's website or after public availability of an applicant's request for proposal (RFP) before entering into an agreement with a service provider for the requested services.³ Lastly, for one applicant, we deny the appeal for failing to comply with the Commission's competitive bidding rules.⁴

2. Accordingly, we remand the underlying applications associated with the granted appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix

¹ In this Order, we use the term "appeals" to generically refer to requests for review of decisions, or waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these petitions is attached in the Appendix and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c).

² 47 C.F.R. § 54.504(c); *see infra* paras. 6-7.

³ 47 C.F.R. § 54.504(b)(4); *see infra* paras. 8-9.

⁴ *See infra* para. 10.

and issue an award or denial based upon a complete review and analysis no later than 120 days from the release of this Order. In addition, starting in Funding Year 2007,⁵ we direct USAC to provide applicants with a 15-day opportunity to cure any ministerial or clerical errors on their FCC Form 471 that make it appear that the applicants violated the 28-day rule.⁶

3. As the Commission recently noted, many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated, resulting in a number of applications for E-rate support being denied for ministerial or clerical errors.⁷ We find that the actions we take here to provide relief will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the “Act”), by helping to ensure that eligible schools and libraries obtain access to discounted telecommunications and information services.⁸ Moreover, we believe that none of the waivers of sections 54.504(b)(4) and (c) granted here will frustrate the overarching purpose of the 28-day competitive bidding process, which is intended to ensure a fair opportunity for service providers to bid on the services sought by applicants.⁹

II. BACKGROUND

4. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.¹⁰ The Commission’s rules provide that each funding year, with one limited exception for existing, binding contracts, an eligible school, library, or consortium that includes eligible schools or libraries must seek competitive bids for all services eligible for support.¹¹ In accordance with the Commission’s rules, an applicant must file with USAC, for posting to USAC’s website, an FCC Form 470 requesting discounted services.¹² The applicant must wait 28 days after the FCC Form 470 is posted

⁵ USAC shall also apply this 15-day opportunity to applications with these types of appeals currently before USAC.

⁶ See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File No. SLD-487170, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5326-27, para. 23 (2006) (*Bishop Perry Order*). We recognize that USAC cannot always identify these types of errors simply by looking at the FCC Form 471. In those cases, applicants will have 15 days from receiving the denial of their application to demonstrate that it was a ministerial or clerical error that gave the appearance that the applicant violated the 28-day rule.

⁷ See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*); *Bishop Perry Order*, 21 FCC Rcd at 5316, para. 2.

⁸ 47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

⁹ See 47 C.F.R. §§ 54.504 (b)(4) and (c); see, e.g., *Request for Review of the Decision of the Universal Service Administrator by Currituck County Schools, Federal-State Joint Board on Universal Service*, File No. SLD-111040, CC Docket No. 96-45, Order, 15 FCC Rcd 5564, 5566, para. 6 (Com. Car. Bur. 2000) (*Currituck County Schools Order*).

¹⁰ 47 C.F.R. §§ 54.501-54.503.

¹¹ 47 C.F.R. §§ 54.504, 54.511(c).

¹² 47 C.F.R. § 54.504(b); see also *Schools and Libraries Universal Service, Description of Services Requested and Certification Form*, OMB 3060-0806 (September 1999) (Funding Years 2000, 2001, 2002 FCC Form 470); *Schools and Libraries Universal Service, Description of Services Requested and Certification Form*, OMB 3060- (continued . . .)

to the USAC website or after public availability of an applicant's RFP, whichever is later, before entering into an agreement with a service provider for the requested services.¹³ Once the school or library has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify USAC of the services that have been ordered, the service providers with which the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.¹⁴ An applicant can enter into multi-year contracts or contracts with voluntary extensions without reposting an FCC Form 470 application and complying with the 28-day rule each year as long as the applicant indicated such intent in Item 13 on its FCC Form 470 or in its RFP.¹⁵

III. DISCUSSION

5. In this item, we grant 62 appeals and deny one appeal of decisions by USAC denying requests for funding under the E-rate program due to an applicant's failure to comply with the Commission's 28-day competitive bidding requirement.¹⁶ The E-rate program's competitive bidding requirements ensure more efficient pricing for telecommunications and information services purchased by schools and libraries by minimizing the amount of support needed. Specifically, "the 28-day posting rule

(Continued from previous page)

0806 (April 2002) (Funding Year 2003 FCC Form 470); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (May 2003) (Funding Year 2004 FCC Form 470); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (October 2004) (Funding Year 2005 FCC Form 470) (collectively, FCC Form 470).

¹³ 47 C.F.R. § 54.504(b)(4); *see* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1997) (Funding Year 1999 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (Funding Year 2001 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (Funding Year 2002 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) (Funding Year 2004 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (Funding Year 2005 FCC Form 471) (collectively, FCC Form 471).

¹⁴ 47 C.F.R. § 54.504(c). *See* FCC Form 471. The Commission's rules do provide a limited exemption from the 28-day competitive bidding requirement when applicants had "existing contracts" signed before January 30, 1998. *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Tenth Order on Reconsideration, 14 FCC Rcd 5983, 5986, para. 6 (1999); *see also* 47 C.F.R. § 54.511(c)(1). None of the Petitioners argue that this exemption applies to their case.

¹⁵ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 6732, 6736, para. 10-12 (1999); *see* USAC website, Contract guidance, at <http://www.universalservice.org/sl/applicants/step04/contract-guidance.aspx> (retrieved March 5, 2007). A contract including voluntary extensions means that the contract expires at the end of its original term and may be voluntarily extended for one or more years pursuant to the provisions in the contract. *Id.*

¹⁶ The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166.

is intended to provide a fair and uniform period applicable to all schools and libraries seeking discounts for eligible services to permit competitive bidding by all potential bidders.”¹⁷ Generally, Petitioners’ argue either that they made clerical or ministerial errors on the FCC Form 471¹⁸ or that they misunderstood our rules, which resulted in a denial of their requests for E-rate funding.¹⁹ For the reasons discussed below, we waive sections 54.504(b) or (c) of our rules, as applicable, and grant these appeals.²⁰ The Commission also notes that the grant of these appeals should have minimal effect on the Universal Service Fund.²¹ With regard to one appeal, we deny for failing to comply with the Commission’s competitive bidding rules.²² Therefore, we remand the underlying applications associated with these

¹⁷ See *Currituck County Schools Order*, 15 FCC Rcd at 5566, para. 6.

¹⁸ See Application for Review of Aberdeen School District; Request for Review of Abilene Free Public Library; Petition for Reconsideration of Albany Public Library; Request for Review of Augusta County School District; Request for Review of Bank Street School for Children; Request for Review of Bath School Department; Request for Review of Bethlehem Area Public Library; Request for Review of B.F. Jones Memorial Library Aliquippa District Library Center; Request for Review of Calumet City Public Library; Request for Review of Chippewa Hills School District; Request for Review of Chowchilla Union High School District; Request for Review and/or Waiver of Cumberland County School District; Request for Review of David Douglas School District 40; Request for Review of Hydaburg City School; Request for Review of Jackson-Hinds Library System; Request for Review of Johnson Elementary School; Request for Review of Kennewick School District; Request for Review of Madawaska School District; Request for Review of Maine School Administration District No. 9; Request for Waiver of Marvin L. Winans Academy of Performing Arts; Request for Review of Milton School District; Request for Review of Modesto City Schools; Request for Review of Nelson Public School District; Request for Review of Norborne R-VIII School District; Request for Review of Onondaga-Cortland Madison BOCES; Request for Review of Princeton R-5 School; Request for Review of Prosser School District No. 116; Request for Review of Rapides Parish Library; Request for Review of Richland School District; Request for Review of Sycamore Community Schools; Request for Review and/or Waiver of Waverly City Schools; Request for Review of Western Ohio Computer Organization; Request for Review of White Settlement Independent School District; Request for Review of Willits Charter School.

¹⁹ See Request for Review of Anchorage School District; Request for Review of Atlantic County Library System; Request for Review of Butternut School District; Request for Review of Clark Township School District; Request for Review of Columbia Union School District; Request for Waiver of Cooperative Educational Service Agency No. 7; Request for Review of Ewing Public Schools; Request for Review of Graham Independent School District; Request for Review of Islesboro School District; Request for Review of Los Angeles Unified School District; Request for Waiver of Mason Public School District; Request for Review of Miles City Unified School District; Request for Waiver of Nottingham School; Request for Review of Swampscott Public Schools; Request for Waiver of Bedford Public Schools; Application for Review of Custer County School District; Request for Review of Manton JT Union Elementary School District; Request for Waiver of Philadelphia-Montgomery Christian Academy; Request for Review of Brunswick County Schools; Request for Review of Dallas County School District 1; Request for Review of Danville City School District; Request for Review of Helena Public School District No. 1; Request for Review of Howell Township Public Schools; Request for Review of Latch School Inc.; Request for Review of North Scott Community School District; Request for Review of The School District of Palm Beach County; Request for Review of United School District. One request for waiver, filed on behalf of Reform Public Library (Reform), was submitted by USAC. USAC acknowledged that it significantly delayed posting Reform’s FCC Form 470 to its website. Due to this delay, Reform violated the 28-day rule in order to file its FCC Form 471 before the filing window closed. See Request for Waiver of Reform Public Library.

²⁰ See 47 C.F.R. §§ 54.504(b)(4) and (c).

²¹ We estimate that the appeals granted in this Order involve applications for approximately \$15.2 million in funding for Funding Years 1999-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2007 (Jan. 31, 2007). Thus, we determine that the action we take today should have minimal impact on the Universal Service Fund as a whole.

²² See *infra* para. 10.

appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or denial based upon a complete review and analysis no later than 120 days from the release of this Order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the requested services.²³

6. *Section 54.504(c) Waivers.* According to their denial letters from USAC, these Petitioners' requests for E-rate funding were denied because their contracts for discounted services were signed prior to the 28-day waiting period computed from the date of the posting of the FCC Form 470 on the USAC website. These Petitioners' denials, however, can be more accurately described as failing to comply with the requirement of section 54.504(c) of our rules, which requires applicants to submit a completed FCC Form 471 to USAC.²⁴ That is, while the applicants filed their FCC Forms 471 on time, they need a waiver to make a correction after the deadline. Specifically, these appeals involved clerical errors on the part of the Petitioners; they inserted the wrong contract date, the wrong classification of service, or the wrong FCC Form 470 application number on the FCC Form 471, thus making it appear that the applicants violated the 28-day rule.²⁵

7. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive section 54.504(c) of our rules.²⁶ In these circumstances, applicants committed minor errors in filling out their application forms. As the Commission recently noted, we do not believe that such minor mistakes warrant the complete rejection of each of these applicants' E-rate applications.²⁷ Our finding is consistent with our ruling in the *Bishop Perry Order* in which the Commission waived section 54.504(c) of our rules in situations where applicants' ministerial or clerical errors caused USAC to find that the applications were not complete and thus not filed within the filing window.²⁸ Importantly, like those appeals granted in the *Bishop Perry Order*, applicants' errors here could not have resulted in an

²³ Nothing in this order is intended to authorize or require payment of any claim that has previously been released by a service provider or applicant, including in a civil settlement or criminal plea agreement with the United States.

²⁴ See 47 C.F.R. § 54.504(c).

²⁵ See Application for Review of Aberdeen School District; Request for Review of Abilene Free Public Library; Petition for Reconsideration of Albany Public Library; Request for Review of Augusta County School District; Request for Review of Bank Street School for Children; Request for Review of Bath School Department; Request for Review of Bethlehem Area Public Library; Request for Review of B.F. Jones Memorial Library Aliquippa District Library Center; Request for Review of Calumet City Public Library; Request for Review of Chippewa Hills School District; Request for Review of Chowchilla Union High School District; Request for Review and/or Waiver of Cumberland County School District; Request for Review of David Douglas School District 40; Request for Review of Hydaburg City School; Request for Review of Jackson-Hinds Library System; Request for Review of Johnson Elementary School; Request for Review of Kennewick School District; Request for Review of Madawaska School District; Request for Review of Maine School Administration District No. 9; Request for Waiver of Marvin L. Winans Academy of Performing Arts; Request for Review of Milton School District; Request for Review of Modesto City Schools; Request for Review of Nelson Public School District; Request for Review of Norborne R-VIII School District; Request for Review of Onondaga-Cortland Madison BOCES; Request for Review of Princeton R-5 School; Request for Review of Prosser School District No. 116; Request for Review of Rapides Parish Library; Request for Review of Richland School District; Request for Review of Sycamore Community Schools; Request for Review and/or Waiver of Waverly City Schools; Request for Review of Western Ohio Computer Organization; Request for Review of White Settlement Independent School District; Request for Review of Willits Charter School.

²⁶ 47 C.F.R. § 54.504(c).

²⁷ *Bishop Perry Order*, 21 FCC Rcd at 5321, para. 11.

²⁸ *Id.* at paras. 10-11.

advantage for them in the processing of their application.²⁹ As such, the applicants' mistakes, if not caught by USAC, could not have resulted in the applicants receiving more funding than they were entitled to. Moreover, the Commission found in the *Bishop Perry Order* that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.³⁰ Thus, we find that good cause exists to waive section 54.504(c) of our rules for these applicants.³¹ Accordingly, we grant and remand these appeals to USAC for further processing consistent with this Order.

8. **Section 54.504(b) Waivers.** A number of Petitioners mistakenly signed their contracts or certified their FCC Forms 471 before the allowable contract date.³² Other Petitioners filed an FCC Form 471 before the allowable contract date because there was only one service provider in the area that could provide the needed services and, therefore, Petitioners mistakenly believed they did not have to wait 28 days before submitting an FCC Form 471.³³ Other Petitioners did not indicate they were posting for a multi-year contract or a contract with a voluntary renewal provision when they originally posted the FCC Form 470.³⁴ Finally, we find that two Petitioners complied with the Commission's rules and grant their requests for review.³⁵

9. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive section 54.504(b)(4) of the Commission's rules, which requires applicants to wait 28 days after posting an FCC Form 470 to USAC's website before entering into an agreement with a service provider for the requested services.³⁶ We find that Petitioners' errors related to the competitive bidding process do not warrant a complete rejection of their applications. We have examined the facts of each of

²⁹ *Id.* at para. 11.

³⁰ *See id.* at paras. 2, 9.

³¹ 47 C.F.R. § 54.504(c).

³² *See* Request for Review of Atlantic County Library System; Request for Review of Butternut School District; Request for Review of Clark Township School District; Request for Waiver of Cooperative Educational Service Agency No. 7; Request for Review of Dallas County School District 1; Request for Review of Ewing Public Schools; Request for Review of Graham Independent School District; Request for Review of Islesboro School District; Request for Review of Los Angeles Unified School District; Request for Waiver of Mason Public School District; Request for Review of Miles City Unified School District; Request for Waiver of Nottingham School; Request for Review of Swampscott Public Schools.

³³ *See* Request for Waiver of Bedford Public Schools; Application for Review of Custer County School District; Request for Review of Manton JT Union Elementary School District; Request for Waiver of Philadelphia-Montgomery Christian Academy.

³⁴ *See* Request for Review of Anchorage School District; Request for Review of Brunswick County Schools; Request for Review of Columbia Union School District; Request for Review of Danville City School District; Request for Review of Helena Public School District No. 1; Request for Review of Howell Township Public Schools; Request for Review of Latch School Inc.; Request for Review of North Scott Community School District; Request for Review of The School District of Palm Beach County; Request for Review of United School District.

³⁵ In the Request for Review of Butternut School District (Butternut), we find that USAC erred in denying the school district funding for telecommunications services. The certification date of Butternut's FCC Form 471 was February 4, 2004, after the January 16, 2004 allowable contract date. In the Request for Review of United School District (United), we find that USAC also erred in denying United's funding. The FCC Form 470 filed by United School District for the services at issue indicated that the applicant was seeking a multi-year contract.

³⁶ *See* 47 C.F.R. § 54.504(b)(4).

these appeals and found that a waiver is warranted based on the circumstances presented and based on the facts that there is no evidence of waste, fraud or abuse. The goal of the competitive bidding process is to ensure that funding is not wasted because an applicant agrees to pay a higher price than is otherwise commercially available. We find no indication in the record that, as a result of these errors, applicants benefited from their mistakes or that any service provider was harmed. Specifically, there is no evidence in the record that other bids were not considered because these applicants did not fully comply with our competitive bidding rules. We find that the policy underlying these rules, therefore, was not compromised due to Petitioners' errors. In fact, those Petitioners with multi-year contracts complied with our competitive bidding rules when their requests for service were initially posted. Furthermore, we find that several of these Petitioners, while not waiting the full 28 days before entering into an agreement, only missed the 28-day deadline by a minimal number of days (*i.e.*, one to three days) and therefore their requests for discounted services were subject to competitive bidding for a meaningful period of time. While we emphasize that our competitive bidding rules are important to ensure a fair bidding process, we find that denying these Petitioners requests for funding would create undue hardship and prevent these potentially otherwise eligible schools and libraries from receiving E-rate funding. We therefore find that good cause exists to grant Petitioners a waiver of section 54.504(b)(4) of our rules.³⁷ Accordingly, we grant and remand these appeals to USAC for further processing consistent with this Order.³⁸

10. Although we find that good cause exists to grant waivers of the Commission's rules for the Petitioners described above, we deny the appeal of Adel-Desoto-Minburn Community School District (Adel) for failing to adhere to the Commission's competitive bidding rules.³⁹ Adel said it did not file a new FCC Form 470 in Funding Year 2002 because the window for FCC Form 470s was closed.⁴⁰ Instead, Adel cited to an FCC Form 470 it had filed three years earlier. Commission rules require applicants to file a new FCC Form 470 for posting each year, with minor exceptions.⁴¹ As a result, Adel did not file an FCC Form 470 in Funding Year 2002 to be posted on USAC's website for 28 days to solicit competitive bids for its services.⁴² We find that the particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule.⁴³ Unlike the other Petitioners, Adel's violation of the 28-day rule was not a result of a clerical error or misunderstanding of our competitive bidding rules. Adel circumvented the competitive bidding process by not soliciting bids in the year for which it sought services. As a result, Adel's contract with its service provider was never subject to the competitive bidding process. We therefore deny Adel's petition for review.

³⁷ 47 C.F.R. § 54.504(b)(4).

³⁸ During post-funding review, USAC determined that Atlantic County Library System (Atlantic), Los Angeles Unified School District (Los Angeles); and Swampscott School District (Swampscott) had agreements with their service providers prior to the allowable contract date, and that Kennewick School District (Kennewick) provided the wrong classification of service on its FCC Form 470, both violations of the Commission's competitive bidding rules. Los Angeles, Swampscott and Kennewick were then subject to funding commitment adjustments by USAC which rescinded their funding commitments. In light of our decision, we direct USAC to discontinue recovery actions against Atlantic, Los Angeles, Swampscott and Kennewick.

³⁹ See Request for Review of Adel-DeSoto-Minburn Community School District.

⁴⁰ *Id.* at 1.

⁴¹ There is a limited exception for existing, binding contracts. See 47 C.F.R. § 54.511(c).

⁴² *Id.*

⁴³ See Request for Review of the Decision of the Universal Service Administrator by Henrico County School District, Richmond, Virginia, Federal-State Joint Board on Universal Service, File No. SLD-209204, CC Docket No. 96-45, Order, 17 FCC Rcd 706 (APD 2002) (denying a request for review where applicant relied upon an FCC Form 470 posted in Funding Year 3 in support of its Funding Year 2 service requests).

11. We emphasize the limited nature of this decision. As discussed above, the competitive bidding rules ensure more efficient pricing for telecommunications and information services purchased by schools and libraries.⁴⁴ Many other E-rate applicants fully complied with these rules, and our action here does not eliminate the 28-day competitive bidding requirement. Applicants are not free to disregard the 28-day rule based on their own determination that only one service provider can provide the desired services—they must use the bidding process to determine whether this is the case. In addition, we note that, in the *Comprehensive Review NPRM*, we started a proceeding to address, among other things, potential streamlining of the application and competitive bidding process for the schools and libraries support mechanism.⁴⁵ In the interim, all applicants must comply with our current rules and procedures and continue to submit complete and accurate information to USAC as part of the application review process. Applicants who have questions about the competitive bidding process or who need technical support should contact USAC for clarification and assistance.

12. Further, beginning in Funding Year 2007, we require USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Forms 471 that make it appear that the applicants violated the 28-day rule.⁴⁶ Specifically, USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy those errors. Applicants shall have 15 calendar days from the date of receipt of notice in writing by USAC to amend or refile their FCC Form 471.⁴⁷ The 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed for E-rate applicants and should provide sufficient time for applicants to correct unintentional ministerial and clerical errors.⁴⁸ The opportunity for applicants to amend their filings to cure these types of errors will also improve the efficiency and effectiveness of the Fund and reduce the occurrence of circumstances justifying waivers such as those granted above. Because applicants who are eligible for funding will now receive funding where previously it was denied for ministerial or clerical errors, we will ensure that funding is distributed first to the applicants who are determined by our rules to be most in need of funding. As a result, universal service support will be received by schools in which it will have the greatest impact for the most students. Furthermore, the opportunity to amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file correct and complete applications initially, USAC should be able to reduce the money it spends on administering the fund because fewer appeals will be filed protesting the denial of funding for these types of issues. Therefore, we believe this additional opportunity to cure inadvertent administrative, ministerial, and clerical errors on applications will improve the administration of fund.

13. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the E-rate program rules and

⁴⁴ See *supra* para. 6.

⁴⁵ *Comprehensive Review NPRM*, 20 FCC Rcd at 11325, para. 40.

⁴⁶ USAC shall also apply this 15-day opportunity to applications with these types of appeals currently before USAC. See *Bishop Perry Order*, 21 FCC Rcd at 5326, para. 23.

⁴⁷ Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to amend their applications.

⁴⁸ We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

requirements. Because audits or investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or our rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or our rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under the Commission's procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

14. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that 47 C.F.R. §§ 54.504(b)(4) and (c) ARE WAIVED, to the extent detailed herein.

15. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that, with the exception of the Request for Review filed by Adel-Desoto-Minburn, Adel, Iowa, the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED and REMANDED to USAC for further consideration in accordance with the terms of this Order.

16. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Request for Review filed by Adel-Desoto-Minburn, Adel, Iowa, IS DENIED.

17. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that USAC SHALL COMPLETE its review of each remanded application listed in the Appendix and SHALL ISSUE an award or a denial based on a complete review and analysis no later than 120 calendar days from release of this Order.

18. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release, in accordance with section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

St. Lucie County School District
BEN 127892
471 # 593337, FRN 1651705
Letter of Appeal
Federal Communications Commission
July 14, 2010

NOTE 9 - StLucie_FY6_471_358608_app-curr

**Schools and Libraries Universal Service Program
Services Ordered and Certification Form 471
Application Display**

Block 1: Billed Entity Information

Applicant's Form Identifier: WAN Fiber
Lease

471 Application Number: 358608

Cert. Postmark Date: 01/31/2003

Out of Window Letter Date: Not applicable

Funding Year: 07/01/2003 -
06/30/2004

Form Status: CERTIFIED - In
Window

Billed Entity Number:
127892

RAL Date: 02/10/2003

Name: ST LUCIE COUNTY SCHOOL DIST
Address: 2909 DELAWARE AVE
City: FORT PIERCE **State:** FL **Zip:** 34947 7299

Contact Name: David Jasa
Address: 2909 DELAWARE AVE
City: FORT PIERCE **State:** FL **Zip:** 34947 7299

Type of Application: SCHOOL DISTRICT

Ineligible Orgs: N

Block 3: Impact of Services Ordered in THIS Application

Number of students to be served: 28231

Number of library patrons to be served:

SERVICE DESCRIPTION	BEFORE ORDER	AFTER ORDER
b. High-bandwidth voice/data/video service: How many buildings served before and after your order?	231	231
c. High-bandwidth voice/data/video service: Highest speed to a building before and after your order?	T1	1 GB
h. Internet access(for schools): How many rooms have Internet access before and after your order?	2921	2921

Block 4: Worksheets

Worksheet A No: 459686**Student Count:** 28231**Weighted Product (Sum. Column 8):** 21167.9**Shared Discount:** 75%**1. School Name:** BAYSHORE ELEMENTARY SCHOOL**2. Entity Number:** 38870 **3. Rural/Urban:** Urban**4. Student Count:** 872 **5. NSLP Students:** 438 **6. NSLP Students/Students:** 50.229%**7. Discount:** 80% **8. Weighted Product:** 697.6**1. School Name:** CHESTER A MOORE ELEMENTARY SCHOOL**2. Entity Number:** 38805 **3. Rural/Urban:** Urban**4. Student Count:** 584 **5. NSLP Students:** 520 **6. NSLP Students/Students:** 89.041%**7. Discount:** 90% **8. Weighted Product:** 525.6**1. School Name:** DALE CASSENS EDUCATIONAL CTR**2. Entity Number:** 38815 **3. Rural/Urban:** Urban**4. Student Count:** 122 **5. NSLP Students:** 104 **6. NSLP Students/Students:** 85.245%**7. Discount:** 90% **8. Weighted Product:** 109.8**1. School Name:** DAN MCCARTY MIDDLE SCHOOL**2. Entity Number:** 38819 **3. Rural/Urban:** Urban**4. Student Count:** 1205 **5. NSLP Students:** 697 **6. NSLP Students/Students:** 57.842%**7. Discount:** 80% **8. Weighted Product:** 964**1. School Name:** DETENTION CENTER**2. Entity Number:** 203727 **3. Rural/Urban:** Urban**4. Student Count:** 85 **5. NSLP Students:** 85 **6. NSLP Students/Students:** 100.000%**7. Discount:** 90% **8. Weighted Product:** 76.5**1. School Name:** EXCEL ALTERNATIVE EDUCATION**2. Entity Number:** 227516 **3. Rural/Urban:** Urban**4. Student Count:** 156 **5. NSLP Students:** 74 **6. NSLP Students/Students:** 47.435%**7. Discount:** 60% **8. Weighted Product:** 93.6**1. School Name:** FAIRLAWN ELEMENTARY SCHOOL**2. Entity Number:** 38804 **3. Rural/Urban:** Urban**4. Student Count:** 653 **5. NSLP Students:** 305 **6. NSLP Students/Students:** 46.707%**7. Discount:** 60% **8. Weighted Product:** 391.8**1. School Name:** FLORESTA ELEMENTARY SCHOOL**2. Entity Number:** 38866 **3. Rural/Urban:** Urban**4. Student Count:** 715 **5. NSLP Students:** 388 **6. NSLP Students/Students:** 54.265%**7. Discount:** 80% **8. Weighted Product:** 572**1. School Name:** FOREST GROVE MIDDLE SCHOOL**2. Entity Number:** 38856 **3. Rural/Urban:** Urban**4. Student Count:** 1252 **5. NSLP Students:** 857 **6. NSLP Students/Students:** 68.450%**7. Discount:** 80% **8. Weighted Product:** 1001.6**1. School Name:** FORT PIERCE CENTRAL HIGH SCH**2. Entity Number:** 38858 **3. Rural/Urban:** Urban**4. Student Count:** 1712 **5. NSLP Students:** 681 **6. NSLP Students/Students:** 39.778%**7. Discount:** 60% **8. Weighted Product:** 1027.2**1. School Name:** FORT PIERCE-WESTWOOD HIGH SCH

2. Entity Number: 38808 3. Rural/Urban: Urban
4. Student Count: 1454 5. NSLP Students: 742 6. NSLP Students/Students: 51.031%
7. Discount: 80% 8. Weighted Product: 1163.2

1. School Name: FRANCIS K SWEET ELEMENTARY SCHOOL
2. Entity Number: 38811 3. Rural/Urban: Urban
4. Student Count: 624 5. NSLP Students: 276 6. NSLP Students/Students: 44.230%
7. Discount: 60% 8. Weighted Product: 374.4

1. School Name: FT. PIERCE MAGNET SCHOOL OF THE ARTS
2. Entity Number: 201803 3. Rural/Urban: Urban
4. Student Count: 311 5. NSLP Students: 163 6. NSLP Students/Students: 52.411%
7. Discount: 80% 8. Weighted Product: 248.8

1. School Name: GARDEN CITY ELEMENTARY SCHOOL
2. Entity Number: 38810 3. Rural/Urban: Urban
4. Student Count: 554 5. NSLP Students: 431 6. NSLP Students/Students: 77.797%
7. Discount: 90% 8. Weighted Product: 498.6

1. School Name: LAKEWOOD PARK ELEM SCHOOL
2. Entity Number: 38821 3. Rural/Urban: Urban
4. Student Count: 738 5. NSLP Students: 552 6. NSLP Students/Students: 74.796%
7. Discount: 90% 8. Weighted Product: 664.2

1. School Name: LAWNWOOD ELEMENTARY SCHOOL
2. Entity Number: 38814 3. Rural/Urban: Urban
4. Student Count: 693 5. NSLP Students: 525 6. NSLP Students/Students: 75.757%
7. Discount: 90% 8. Weighted Product: 623.7

1. School Name: MANATEE ELEMENTARY SCHOOL
2. Entity Number: 38871 3. Rural/Urban: Urban
4. Student Count: 806 5. NSLP Students: 432 6. NSLP Students/Students: 53.598%
7. Discount: 80% 8. Weighted Product: 644.8

1. School Name: MARIPOSA ELEMENTARY SCHOOL
2. Entity Number: 38827 3. Rural/Urban: Urban
4. Student Count: 680 5. NSLP Students: 399 6. NSLP Students/Students: 58.676%
7. Discount: 80% 8. Weighted Product: 544

1. School Name: MORNINGSIDE ELEMENTARY SCHOOL
2. Entity Number: 38823 3. Rural/Urban: Urban
4. Student Count: 679 5. NSLP Students: 376 6. NSLP Students/Students: 55.375%
7. Discount: 80% 8. Weighted Product: 543.2

1. School Name: NORTHPORT MIDDLE SCHOOL
2. Entity Number: 38869 3. Rural/Urban: Urban
4. Student Count: 1091 5. NSLP Students: 674 6. NSLP Students/Students: 61.778%
7. Discount: 80% 8. Weighted Product: 872.8

1. School Name: PARKWAY ELEMENTARY SCHOOL
2. Entity Number: 38867 3. Rural/Urban: Urban
4. Student Count: 613 5. NSLP Students: 475 6. NSLP Students/Students: 77.487%
7. Discount: 90% 8. Weighted Product: 551.7

1. School Name: PORT ST LUCIE ELEM SCHOOL

2. Entity Number: 38862 **3. Rural/Urban:** Urban
4. Student Count: 891 **5. NSLP Students:** 481 **6. NSLP Students/Students:** 53.984%
7. Discount: 80% **8. Weighted Product:** 712.8

1. School Name: PORT ST LUCIE HIGH SCHOOL
2. Entity Number: 38828 **3. Rural/Urban:** Urban
4. Student Count: 1871 **5. NSLP Students:** 680 **6. NSLP Students/Students:** 36.344%
7. Discount: 60% **8. Weighted Product:** 1122.6

1. School Name: RIVERS EDGE ELEMENTARY
2. Entity Number: 38864 **3. Rural/Urban:** Urban
4. Student Count: 822 **5. NSLP Students:** 519 **6. NSLP Students/Students:** 63.138%
7. Discount: 80% **8. Weighted Product:** 657.6

1. School Name: SAINT LUCIE ELEMENTARY SCHOOL
2. Entity Number: 38816 **3. Rural/Urban:** Urban
4. Student Count: 784 **5. NSLP Students:** 627 **6. NSLP Students/Students:** 79.974%
7. Discount: 90% **8. Weighted Product:** 705.6

1. School Name: SAVANNA RIDGE ELEMENTARY SCHOOL
2. Entity Number: 201805 **3. Rural/Urban:** Urban
4. Student Count: 728 **5. NSLP Students:** 442 **6. NSLP Students/Students:** 60.714%
7. Discount: 80% **8. Weighted Product:** 582.4

1. School Name: SOUTHERN OAKS MIDDLE SCHOOL
2. Entity Number: 38865 **3. Rural/Urban:** Urban
4. Student Count: 1009 **5. NSLP Students:** 594 **6. NSLP Students/Students:** 58.870%
7. Discount: 80% **8. Weighted Product:** 807.2

1. School Name: SOUTHPORT MIDDLE SCHOOL
2. Entity Number: 38825 **3. Rural/Urban:** Urban
4. Student Count: 1008 **5. NSLP Students:** 592 **6. NSLP Students/Students:** 58.730%
7. Discount: 80% **8. Weighted Product:** 806.4

1. School Name: ST LUCIE WEST CENTENNIAL HIGH
2. Entity Number: 205753 **3. Rural/Urban:** Urban
4. Student Count: 1628 **5. NSLP Students:** 558 **6. NSLP Students/Students:** 34.275%
7. Discount: 50% **8. Weighted Product:** 814

1. School Name: ST. LUCIE WEST MIDDLE SCHOOL
2. Entity Number: 201806 **3. Rural/Urban:** Urban
4. Student Count: 902 **5. NSLP Students:** 408 **6. NSLP Students/Students:** 45.232%
7. Discount: 60% **8. Weighted Product:** 541.2

1. School Name: TREASURE COAST - P.A.C.E
2. Entity Number: 225532 **3. Rural/Urban:** Urban
4. Student Count: 43 **5. NSLP Students:** 22 **6. NSLP Students/Students:** 51.162%
7. Discount: 80% **8. Weighted Product:** 34.4

1. School Name: VILLAGE GREEN ELEMENTARY SCH
2. Entity Number: 38826 **3. Rural/Urban:** Urban
4. Student Count: 811 **5. NSLP Students:** 331 **6. NSLP Students/Students:** 40.813%
7. Discount: 60% **8. Weighted Product:** 486.6

1. **School Name:** WEATHERBEE ELEMENTARY SCHOOL
 2. **Entity Number:** 38860 3. **Rural/Urban:** Urban
 4. **Student Count:** 779 5. **NSLP Students:** 576 6. **NSLP Students/Students:** 73.940%
 7. **Discount:** 80% 8. **Weighted Product:** 623.2

1. **School Name:** WHITE CITY ELEMENTARY SCHOOL
 2. **Entity Number:** 38861 3. **Rural/Urban:** Urban
 4. **Student Count:** 629 5. **NSLP Students:** 451 6. **NSLP Students/Students:** 71.701%
 7. **Discount:** 80% 8. **Weighted Product:** 503.2

1. **School Name:** WINDMILL POINT ELEM SCHOOL
 2. **Entity Number:** 38829 3. **Rural/Urban:** Urban
 4. **Student Count:** 727 5. **NSLP Students:** 418 6. **NSLP Students/Students:** 57.496%
 7. **Discount:** 80% 8. **Weighted Product:** 581.6

Block 5: Discount Funding Request(s)

FRN: 988856 FCDL Date: 08/11/2003	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 613270000424954
13. SPIN: 143004824	14. Service Provider Name: BellSouth Telecommunications, Inc.
15. Contract Number: RFP/03-1	16. Billing Account Number: 772-V95-3848-848
17. Allowable Contract Date: 12/04/2002	18. Contract Award Date: 01/28/2003
19a. Service Start Date: 07/01/2003	19b. Service End Date:
20. Contract Expiration Date: 06/30/2008	
21. Attachment #: 12	22. Block 4 Worksheet No.: 459686
23a. Monthly Charges: \$32,000.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$32,000.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$384,000.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$384,000.00	
23j. % discount (from Block 4): 75	
23k. Funding Commitment Request (23i x 23j): \$288,000.00	

Block 6: Certifications and Signature

24a. Schools: Y
24b. Libraries or Library Consortia: N

26a. Individual Technology Plan: N
26b. Higher-Level Technology Plan(s): Y
26c. No Technology Plan Needed:

27a. Approved Technology Plan(s): Y
27b. State Approved Technology Plan: N
27c. No Technology Plan Needed:

<< Previous

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St. Lucie County School District
BEN 127892
471 # 593337, FRN 1651705
Letter of Appeal
Federal Communications Commission
July 14, 2010

NOTE 13-15 - Adams_contract-dates_3-28-07

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Requests for Waiver)	
of the Decision of the)	
Universal Service Administrator by)	
)	
Adams County School District 14)	File Nos. SLD-425151, 425211, 425303,
Commerce City, Colorado, <i>et al.</i>)	425352, 426285, <i>et al.</i>
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: March 22, 2007

Released: March 28, 2007

By the Commission: Commissioner McDowell issuing a statement.

I. INTRODUCTION

1. In this Order, we grant requests by 66 schools and libraries (collectively, Petitioners) for review of decisions by the Universal Service Administrative Company (USAC) denying applications for discounted services under the schools and libraries universal service mechanism (also known as the E-rate program) on the grounds that they violated the Commission's requirement that a legally binding agreement be in place when the FCC Form 471 application is submitted.¹ We also grant six appeals from applicants whose funding commitments were reduced on the grounds that an existing contract expired without the applicant posting a new FCC Form 470 for services to be provided for the remainder of the funding year.² To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in Appendices A and B and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this Order.

II. BACKGROUND

2. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ Our rules provide that, with one limited exception for existing, binding contracts, an eligible school, library, or consortium that includes eligible schools or libraries must seek

¹ See Appendix A. In this Order, we use the term "appeals" to refer generically to requests for review of decisions, or to petitions for waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these filings is attached in the Appendices and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c).

² See Appendix B.

³ 47 C.F.R. §§ 54.502, 54.503.

competitive bids for all services eligible for support.⁴ In accordance with our rules, an applicant must file with USAC an FCC Form 470 requesting services.⁵ After the FCC Form 470 is posted to USAC's web site, the applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471.⁶ Section 54.504(c) of our rules also states that the FCC Form 471 requesting support for the services ordered by the applicant shall be submitted "upon signing a contract for eligible services."⁷ Specifically, the instructions for FCC Form 471 state that applicants must have a "signed contract" or a "legally binding agreement" with the service provider "for all services" ordered on the FCC Form 471.⁸

3. There are two exceptions to this rule: non-contracted tariffed services and certain month-to-month services.⁹ If the services are month-to-month, applicants can instead submit copies of standard monthly bills as proof that they have binding, legal arrangements with service providers.¹⁰ In addition, applicants are instructed to indicate that such situations exist by filling in the abbreviation "MTM" in Item 15 of the FCC Form 471.¹¹

4. To ensure that applicants are in compliance with our competitive bidding rules, applicants must file a new FCC Form 470 when the existing contract ends.¹² When contracts expire at the end of the original term, the applicant must post a new FCC Form 470 for services provided beyond the contract expiration date.¹³ An applicant does not need to post a new FCC Form 470 each year when it has a multi-year contract or when exercising a contract's voluntary renewal provision if the applicant indicated that it was seeking a contract with those terms when it originally filed the FCC Form 470.¹⁴

5. Seventy-two Petitioners have requested a waiver of our rules or a review of USAC's decision to deny funding because they did not have a legally binding agreement in place when their FCC

⁴ 47 C.F.R. §§ 54.504, 54.511(c).

⁵ 47 C.F.R. § 54.504(b); *see also* Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470).

⁶ 47 C.F.R. § 54.504(b)(4); *see also* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

⁷ 47 C.F.R. § 54.504(c); *see also* *Request for Review of Waldwick School District, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-234540, CC Docket No. 02-6, Order, 18 FCC Rcd 22994, 22995, para. 3 (Wireline Comp. Bur. 2003) (*Waldwick Order*); *Request for Review of St. Joseph High School, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-234540, CC Docket Nos. 96-45, 97-21, Order, 17 FCC Rcd 22499, 22500-01, para. 4 (Wireline Comp. Bur. 2002) (*St. Joseph Order*).

⁸ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (FCC Form 471 Instructions) at 19.

⁹ *Id.* Applicants taking services from a filed tariff are not required to have a binding contract because the service is provided by the service provider to all parties at set rates and conditions.

¹⁰ *Id.* at 20.

¹¹ *Id.*

¹² *See Request for Review of New Albany-Floyd County Consolidated School Corporation, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-287615, CC Docket No. 02-6, Order, 20 FCC Rcd 8159, 8160-61, para. 5 (Wireline Comp. Bur. 2005) (*New Albany-Floyd County Order*).

¹³ *Id.* *See also* USAC website, Contract Guidance, <<http://www.sl.universalservice.org/reference/contract%5Fguidance.asp>> (retrieved Feb. 14, 2007).

¹⁴ *Id.*

Form 471 application was submitted or because their contract expired before the end of the funding year.¹⁵

III. DISCUSSION

6. In this item, we grant relief to 72 Petitioners seeking a reversal of USAC's decisions to deny their requests for universal service funding under the E-rate program. We grant a limited waiver of section 54.504(c) of our rules and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.¹⁶ To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in Appendices A and B and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this Order.

7. Petitioners' requests for universal service funding were denied either because they did not have a legally binding agreement in place when their FCC Form 471 application was submitted or because their contract expired before the end of the funding year. Some Petitioners claim that they could not or did not comply with our rules due to conflicting local or state procurement requirements.¹⁷ Other Petitioners claim that their employees erred or they misunderstood the rules.¹⁸ Other Petitioners claim that they technically followed program rules despite USAC's decision to the contrary.¹⁹

¹⁵ See 47 C.F.R. § 54.504(c). Although there is no specific provision in the Commission's rules that requires applicants to file a new Form 470 for services that extend beyond the contract expiration date, this principle is implicit in the program requirement that all services funded by the schools and libraries program be competitively bid. See 47 C.F.R. 54.504(a).

¹⁶ The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166.

¹⁷ See Request for Review of Adams County School District 14; Request for Waiver of Ballard County School District; Request for Review of Bullock County School District; Request for Review of Chesapeake Public Library System; Request for Review of Churchill County School District; Request for Review of District of Columbia Public Schools; Request for Review of Duluth Public Schools; Request for Review of Guam Department of Education; Request for Review of Holy Family School; Request for Review of Jefferson Parish School District; Request for Review of Merrimack Valley Library Consortium; Request for Review of Metropolitan Dayton Educational Cooperative Association; Request for Review of Missouri Research and Education Network; Request for Review of Monroe County Library System; Request for Review of Milwaukee Public Schools; Request for Review of Saddle Mountain Unified School District # 90; Request for Review of Saint Louis Special School District; Request for Review of Saint Paul Public Schools; Request for Review of San Diego Independent School System.

¹⁸ See Request for Review of Academie Cristo de los Milagros; Request for Review of Amesbury School District; Request for Review of Audre & Bernard Rapoport Academy; Request for Review of Bertie County School; Request for Review of Bourne Middle School; Request for Review of City of Baker School System; Request for Review of Christian Academy of Indiana; Request for Review of Compton Unified School District; Request for Review of Des Moines Public School; Request for Review of Eagle Ridge Academy; Request for Review of FCMA Immokalee Charter School; Request for Waiver of Fulton County School District; Request for Review of Hmong Academy; Request for Review of Information Referral Resource Assistance Independent School District; Request for Review of Institute for Learning Research, Inc.; Request for Review of Kingman Unified School District No. 20; Request

8. Based on the facts and the circumstances of these specific cases, we find that good cause exists to grant a limited waiver of section 54.504(c) of our rules for these Petitioners.²⁰ Competitive bidding requirements serve as a central tenet of the E-rate program. They ensure more efficient pricing for telecommunications and information services purchased by schools and libraries and help deter waste, fraud and abuse. Rigid adherence to the rule in these cases, however, does not further the purposes of the statutory goal mandated by Congress of preserving and advancing universal service for schools and libraries. Furthermore, we note granting these appeals should have minimal effect on the Universal Service Fund (USF or the Fund).²¹

9. The record demonstrates that although some Petitioners technically missed the program deadline for having a written contract in place, they were adhering to local or state procurement laws.²²

for Review of Lapeer District Library; Request for Review of Leland School District; Request for Review of Lincolnville Central School; Request for Review and/or Waiver of Lowell Joint Elementary School District; Request for Review of Nicholas County School District; Request for Review of North Clackamas School District 12; Request for Review of Our Lady Queen of Martyrs School; Request for Review of Parma City School District; Request for Review of RCMA Wimauma Charter School; Request for Review of Russell County Public Schools; Request for Review of Salisbury-Elk Lick School District; Request for Review of Sanborn Regional School District; Request for Review of St. Ignatius School; Request for Review of St. Leo Catholic Urban Academy; Request for Review of St. Matthias School; Request for Review of St. Rose Catholic Urban Academy; Request for Review of Upshur County School District; Request for Review of Wood County Educational Service Center.

¹⁹ See Request for Review of Aldar Academy; Request for Review of Andes Central School District; Request for Review of Beacon Academy; Request for Review of Campbell City Schools; Request for Review and/or Waiver of Cristo Rey New York High School; Request for Review of Fox Public Schools; Request for Review of Greater Newark Charter School; Request for Review of Kershaw County School District; Request for Review of Laredo Independent School District; Request for Review of Lexington County School District 1; Request for Review of Madison-Oneida BOCES; Request for Review of Mercedes Independent School District; Request for Review of Miami-Dade County Public Schools; Request for Review of Montgomery County School District; Request for Review of Richmond County School District; Request for Review of Southside Independent School District; Request for Review of Sunnyside Unified School District 12; Request for Review of United Talmudical Academy; Request for Review of Weatherly Area School District.

²⁰ 47 C.F.R. § 54.504(c). We also find good cause to waive the 28-day competitive bidding rule with respect to one funding request number (FRN) for the City of Baker School System (Baker). USAC denied funding for the FRN after finding that Baker awarded the contract before the 28-day period for posting its FCC Form 470 to USAC's website had expired. See 47 C.F.R. § 54.504(b)-(c). We find that Baker misunderstood the competitive bidding rules and did not repost an FCC Form 470 because it had a multi-year contract with its service provider. Because Baker did not indicate that its contract would be multi-year when it originally requested bids, it should have reposted an FCC Form 470 to allow all parties to bid on the contract. We find that, because this contractual agreement was already subject to the Commission's competitive bidding rules when it was first entered into, Baker should not be denied needed funding for these pre-existing contractual agreements and, thus, we waive section 54.504(b) of the Commission's rules in this instance. See 47 C.F.R. § 54.504(b).

²¹ We estimate that the appeals granted in this Order involve applications for approximately \$27.4 million in funding for Funding Years 2001-2006. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2007 (Jan. 31, 2007). Thus, we determine that the action we take today should have minimal impact on the Universal Service Fund as a whole.

²² See Request for Waiver of Ballard County School District; Request for Review of Bullock County School District; Request for Review of District of Columbia Public Schools; Request for Review of Duluth Public Schools; Request for Review of Guam Department of Education; Request for Review of Holy Family School; Request for Review of Institute for Learning Research, Inc.; Request for Review of Jefferson Parish School District; Request for Review of Madison-Oneida BOCES; Request for Review of Merrimack Valley Library Consortium; Request for Review of Metropolitan Dayton Educational Cooperative Association; Request for Review of Milwaukee Public

Others had to have their commitments with service providers approved by their governing boards or their agreements with service providers were contingent upon getting USAC's approval of funding before they could legally enter into the contract.²³ As a result, these Petitioners were unable to sign a legally binding agreement prior to filing their FCC Form 471 as required by section 54.504(c) of our rules.²⁴ Other Petitioners were denied needed funding because of ministerial mistakes.²⁵ For example, Academia Cristo de los Milagros mistakenly noted on its FCC Form 471 that its contract ended nine months before the end of the funding year, thus securing funding for only three months instead of the 12 it intended.²⁶ In another appeal, Compton Unified School District said it submitted the wrong contract to USAC, making it appear as though its FCC Form 471 was submitted before its contract was signed.²⁷ Although the Petitioners missed the deadline for evidencing a signed contract, they had legally binding contracts in place during the relevant funding years. Thus, all Petitioners had some form of an agreement with their service providers before submitting their FCC Forms 471. We find, therefore, that in these specific circumstances, a limited waiver of rule 54.504(c) is warranted.

10. These mistakes do not warrant the complete rejection of these Petitioners' applications for E-rate funding. Importantly, these appeals do not involve a misuse of funds. The Commission recently found in *Bishop Perry Middle School* that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of

Schools; Request for Review of Missouri Research and Education Network; Request for Review of Saint Paul Public Schools; Request for Review of San Diego Independent School System. Although these schools had substantially completed their selection process for service providers, the contracts were not in place when the FCC Forms 471 were submitted because of additional steps required by state or local procurement laws.

²³ See Request for Review of Adams County School District 14; Request for Review of Chesapeake Public Library System; Request for Review of Churchill County School District; Request for Review of Fox Public Schools; Request for Review of Monroe County Library System; Request for Review of Saddle Mountain Unified School District # 90; Request for Review of Saint Louis Special School District.

²⁴ 47 C.F.R. § 54.504(c). While the dates vary each year, an FCC Form 471 filing window is typically open from early November to early February preceding the start of the funding year. See USAC website, Schools and Libraries Timetable and List of Deadlines, <<http://www.universalservice.org/sl/tools/calendar-reminders.aspx>> (retrieved Feb. 14, 2007).

²⁵ See Request for Review of Academie Cristo de los Milagros; Request for Review of Amesbury School District; Request for Review of Audre & Bernard Rapoport Academy; Request for Review of Bertie County School; Request for Review of Bourne Middle School; Request for Review of City of Baker School System; Request for Review of Campbell City Schools; Request for Review of Christian Academy of Indiana; Request for Review of Compton Unified School District; Request for Review of Des Moines Public School; Request for Review and/or Waiver of Cristo Rey New York High School; Request for Review of Eagle Ridge Academy; Request for Review of FCMA Immokalee Charter School; Request for Waiver of Fulton County School District; Request for Review of Hmong Academy; Request for Review of Information Referral Resource Assistance Independent School District; Request for Review of Kingman Unified School District No. 20; Request for Review of Lapeer District Library; Request for Review of Leland School District; Request for Review of Lincolnville Central School; Request for Review and/or Waiver of Lowell Joint Elementary School District; Request for Review of Miami-Dade County Public Schools; Request for Review of Nicholas County School District; Request for Review of North Clackamas School District 12; Request for Review of Our Lady Queen of Martyrs School; Request for Review of Parma City School District; Request for Review of RCMA Wimauma Charter School; Request for Review of Russell County Public Schools; Request for Review of Salisbury-Elk Lick School District; Request for Review of Sanborn Regional School District; Request for Review of St. Ignatius School; Request for Review of St. Leo Catholic Urban Academy; Request for Review of St. Matthias School; Request for Review of St. Rose Catholic Urban Academy; Request for Review of Upshur County School District; Request for Review of Wood County Educational Service Center.

²⁶ Request for Review of Request for Review of Academie Cristo de los Milagros.

²⁷ Request for Review of Compton Unified School District.

the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.²⁸

11. Consistent with precedent, we also grant the requests for review in instances where USAC denied funding solely because the execution date of the contract did not accompany the signature lines of both the applicant and the service provider.²⁹ We find in these instances that the Petitioners were denied funding by USAC only because the effective date of the contract was separate from the signature lines but that Petitioners had signed and dated contracts in place before the submission of their FCC Forms 471 and thus were in compliance with our rules.³⁰

12. In all of these cases, there is no evidence in the record that Petitioners engaged in activity to defraud or abuse the E-rate program. Finally, we find that, for these applicants, denying their requests for funding would create undue hardship and prevent these otherwise eligible schools and libraries from receiving E-rate funding. In some instances here we depart from prior Bureau precedent.³¹ For the reasons we describe, however, we find that the departure is warranted and in the public interest.

²⁸ See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5316-17, 5319-20, paras. 2, 9 (2006) (*Bishop Perry Middle School*). Moreover, as noted recently in *Bishop Perry Middle School*, many applicants contend that the application process is complicated and time-consuming, and the Commission has started a proceeding to address, among other things, modifying the application and competitive bidding process for the schools and libraries support mechanism. See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11325, para. 40 (2005) (*Comprehensive Review NPRM*); *Bishop Perry Middle School*, 21 FCC Rcd at 5319-20, para. 9.

²⁹ See *Request for Review of a Decision of the Universal Service Administrator by Gayville-Volin School District 63-1, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-471545, CC Docket No. 02-6, Order, 21 FCC Rcd 9274 (Wireline Comp. Bur. 2006); *Request for Review of Richmond County School District, Schools and Libraries Universal Service Support Mechanisms*, File Nos. SLD-451211, 452514, 464649, CC Docket No. 02-6, Order, 21 FCC Rcd 6570 (Wireline Comp. Bur. 2006). To the extent state contract law does not require two signatures and two dates for a valid contract, Commission precedent does not impose such a requirement. We note that in detailing document retention requirements, the Commission required both beneficiaries and service providers to retain executed contracts that are “signed and dated by both parties.” *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808, 15825, para. 48 (2004). We clarify that this language was not intended to establish a new rule regarding the validity of a contractual agreement.

³⁰ See *Request for Review of Aldar Academy*; *Request for Review of Andes Central School District*; *Request for Review of Beacon Academy*; *Request for Review of Greater Newark Charter School*; *Request for Review of Kershaw County School District*; *Request for Review of Laredo Independent School District*; *Request for Review of Lexington County School District 1*; *Request for Review of Mercedes Independent School District*; *Request for Review of Montgomery County School District*; *Request for Review of Richmond County School District*; *Request for Review of Southside Independent School District*; *Request for Review of Sunnyside Unified School District 12*; *Request for Review of United Talmudical Academy*; *Request for Review of Weatherly Area School District*.

³¹ See, e.g., *New Albany-Floyd County Order*, 20 FCC Rcd at 8160-61, para. 5 (finding that applicant must repost FCC Form 470 when contract expires mid-funding year); *Waldwick Order*, 18 FCC Rcd at 22995, para. 3 (denying E-rate funding because applicant did not have signed, binding agreement with service provider); *St. Joseph Order*, 17 FCC Rcd at 22500-01, para. 4 (denying E-rate funding when applicant inadvertently told USAC it did not have a binding agreement even when, in fact, it did).

Accordingly, we find that good cause exists to grant Petitioners a limited waiver of our rules, and remand these matters to USAC for further processing consistent with our decision.³²

13. To assist applicants in successfully applying for funding, we direct USAC to increase its outreach and educational efforts to inform applicants about the program's application requirements in an attempt to reduce these types of errors. We expect that the additional outreach and educational efforts will better assist E-rate applicants in meeting the program's requirements and increase awareness of the filing rules and procedures. As we noted above, we believe that these changes will improve the overall efficiency of the E-rate program and reduce the occurrence of circumstances justifying waivers such as those granted above.

14. We emphasize the limited nature of this decision. As stated above, our competitive bidding rules are important to ensure more efficient pricing for telecommunications and information services purchased by schools and libraries. Although we grant the subject appeals before us, our action here does not eliminate the rule that applicants have a signed contract in place when submitting an FCC Form 471. In addition, we continue to require E-rate applicants to submit complete and accurate contract information to USAC in a timely fashion as part of the application review process.

15. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the E-rate program rules and requirements. Because audits or investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or our rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

16. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that the Requests for Review and Requests for Waiver filed by the Petitioners as listed in Appendices A and B ARE GRANTED and REMANDED to USAC for further consideration in accordance with the terms of this Order.

³² We also reverse USAC's denial of funding to District of Columbia Public Schools (District of Columbia) on the ground that the applicant's funding requests included 30 percent or more of unsubstantiated amounts of eligible services. As we recently held in the *Iroquois Order*, the 30 percent rule applies to requests for ineligible services, not for unsubstantiated amounts of eligible services. *Request for Review by Iroquois West School District 10, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-343292, CC Docket No. 02-6, Order, 20 FCC Rcd 540 (Wireline Comp. Bur. 2005) (*Iroquois Order*); 47 C.F.R. § 54.504(d). We therefore direct USAC to fund the previously denied application, if the application is otherwise in conformity with our rules, but to reduce the District of Columbia's funding by the amount of the costs that cannot be substantiated.

17. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that section 54.504(c) of the Commission's rules, 47 C.F.R. § 54.504(c), IS WAIVED to the limited extent described herein.

18. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, USAC SHALL COMPLETE its review of each remanded application listed in Appendices A and B and ISSUE an award or a denial based on a complete review and analysis no later than 90 calendar days from release of this Order.

19. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release, in accordance with section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

St. Lucie County School District
BEN 127892
471 # 593337, FRN 1651705
Letter of Appeal
Federal Communications Commission
July 14, 2010

NOTE 14, 15 - Barberton_471-contract_10-30-08

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Waiver)	
of the Decision of the)	
Universal Service Administrator by)	
)	
Barberton City School District)	File Nos. SLD-400938, <i>et al.</i>
Barberton, Ohio, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: October 30, 2008

Released: October 30, 2008

By the Acting Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant requests by 18 schools and libraries (collectively, Petitioners) for review of decisions by the Universal Service Administrative Company (USAC) denying applications or rescinding funding for discounted services under the schools and libraries universal service mechanism (also known as the E-rate program).¹ USAC denied the Petitioners' applications for Funding Years 2004, 2005, 2006, and 2007 on the grounds that they violated the Commission's requirement that a legally binding agreement be in place when the FCC Form 471 application is submitted.² We also grant one appeal from an applicant that had its funding commitment reduced on the grounds that an existing contract expired without the applicant posting a new FCC Form 470 for services to be provided for the remainder of the funding year.³ Upon review of these records, we find that the issues raised in seven appeals were recently addressed by the Commission in the *Adams County Order*.⁴ We further find that

¹ See Appendix for a complete list of Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c).

² One applicant, Barberton City School District (Barberton), was denied funding because USAC found that the contract expiration date on its FCC Form 471 changed from the previous year's FCC Form 471. While the changed expiration date was the stated reason for the denial, USAC also found, during its Program Integrity Assurance (PIA) review, that Barberton entered into a contract after the FCC Form 471 certification postmark date. See *infra* para. 5. Funding Years run from July through June, e.g. Funding Year 2004 ran from July 1, 2004 to June 30, 2005.

³ Request for Review of Middle Georgia Wilderness Institute.

⁴ See *Request for Waiver of the Decision of the Universal Service Administrator by Adams County School District 14, Commerce City, CO, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-425151, 425211, 425303, 425352, 426285, *et al.*, CC Docket No. 02-6, Order, 22 FCC Rcd 6019 (2007) (*Adams* (continued...))

the appeals of 11 Petitioners should be granted on the merits. We therefore remand the underlying applications to USAC for further action consistent with this order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the appendix and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this order.⁵

II. BACKGROUND

2. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.⁶ The Commission's rules provide that an eligible school, library, or consortium must seek competitive bids for all services eligible for support.⁷ In accordance with our rules, an applicant must file with USAC an FCC Form 470 requesting services.⁸ After the FCC Form 470 is posted to USAC's web site, the applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471.⁹ Section 54.504(c) of the Commission's rules also states that the FCC Form 471 requesting support for the services ordered by the applicant shall be submitted "upon signing a contract for eligible services."¹⁰ Specifically, the instructions for FCC Form 471 state that applicants must have a "signed contract" or a "legally binding agreement" with the service provider "for all services" ordered on the FCC Form 471.¹¹

(...continued from previous page)

County Order) (finding good cause to grant a limited waiver of the Commission's contract rules and procedures for several applicants).

⁵ In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it, or, if denying the application, provide the applicant with any and all grounds for denial.

⁶ 47 C.F.R. §§ 54.502, 54.503.

⁷ 47 C.F.R. § 54.504. There is one limited exception for existing, binding contracts signed on or before July 10, 1997. *See* 47 C.F.R. § 54.511(c).

⁸ 47 C.F.R. § 54.504(b); *see also* Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (October 2004) (FCC Form 470).

⁹ 47 C.F.R. § 54.504(b)(4); *see also* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (FCC Form 471).

¹⁰ 47 C.F.R. § 54.504(c); *see also* *Request for Review of Waldwick School District, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-234540, CC Docket No. 02-6, Order, 18 FCC Rcd 22994, 22995, para. 3 (Wireline Comp. Bur. 2003) (*Waldwick Order*); *Request for Review of St. Joseph High School, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-234540, CC Docket Nos. 96-45, 97-21, Order, 17 FCC Rcd 22499, 22500-01, para. 4 (Wireline Comp. Bur. 2002) (*St. Joseph Order*).

¹¹ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 at 19 (November 2001) (FCC Form 471 Instructions). There are two exceptions to this rule: non-contracted tariffed services and certain month-to-month services. If the services are month-to-month, applicants can instead submit copies of standard monthly bills as proof that they have binding, legal arrangements with service providers. *Id.*

3. To ensure that applicants are in compliance with our competitive bidding rules, applicants must file a new FCC Form 470 when the existing contract ends.¹² When contracts expire at the end of the original term, the applicant must post a new FCC Form 470 for services provided beyond the contract expiration date.¹³ An applicant does not need to post a new FCC Form 470 each year when it has a multi-year contract or when exercising a contract's voluntary renewal provision if the applicant indicated that it was seeking a contract with those terms when it originally filed the FCC Form 470.¹⁴

4. Eighteen Petitioners have requested a waiver of our rules or a review of USAC's decision to deny or rescind funding because they did not have a legally binding agreement in place when their FCC Form 471 application was submitted or because their contract expired before the end of the funding year.¹⁵

III. DISCUSSION

5. We grant relief to 18 Petitioners seeking a reversal of USAC's decisions to deny or rescind their requests for universal service funding under the E-rate program. For seven Petitioners, we grant a limited waiver of section 54.504(c) of our rules and remand the underlying applications associated with these appeals to USAC for further action consistent with this order.¹⁶ We grant 11 Petitioners' appeals on the merits because these Petitioners demonstrated that they had in place contracts that met the Commission's rules and procedures when submitting their FCC Forms 471. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.¹⁷ We remind USAC of its obligation to independently determine whether the disbursement of universal service funds would be consistent with program requirements, Commission rules and orders, or applicable statutes and to decline to disburse funds where this standard is not met. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each

¹² See *Request for Review of New Albany-Floyd County Consolidated School Corporation, Schools and Libraries Universal Service Support Mechanisms*, File No. SLD-287615, CC Docket No. 02-6, Order, 20 FCC Rcd 8159, 8160-61, para. 5 (Wireline Comp. Bur. 2005) (*New Albany-Floyd County Order*).

¹³ *Id.*

¹⁴ USAC website, Contract Guidance, <http://www.sl.universalservice.org/reference/contract%5Fguidance.asp> (retrieved Aug. 11, 2008).

¹⁵ See 47 C.F.R. § 54.504(c). Although there is no specific provision in the Commission's rules that requires applicants to file a new Form 470 for services that extend beyond the contract expiration date, this principle is implicit in the program requirement that all services funded by the schools and libraries program be competitively bid. See 47 C.F.R. 54.504(a).

¹⁶ The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166.

¹⁷ Additionally, nothing in this order is intended: (1) to authorize or require payment of any claim that previously may have been released by a service provider or applicant, including in a civil settlement or plea agreement with the United States; or (2) to authorize or require payment to any person or entity that has been debarred from participation in the E-rate program.

application listed in the appendix and issue an award or denial based upon a complete review and analysis no later than 90 days from the release of this order.

6. Appeals Granted by Waiver. Based on the facts and circumstances of these specific cases, we find that good cause exists to grant a limited waiver of section 54.504(c) of the Commission's rules for six Petitioners: Barberton; Coffee County School District; Kings River Elementary School District; Manatee County School District; Midwest City-Del City Independent School District; and Urban Day School.¹⁸ These Petitioners claim that their employees erred or they misunderstood the rules.¹⁹ Specifically, Barberton certified its FCC Form 471 three days before the contract was awarded to its service provider.²⁰ Coffee County School District submitted its FCC Form 471 the evening before signing its contract, mistakenly believing that USAC would consider the form submitted the next business day.²¹ Kings River Elementary School District signed its contract 10 days after submitting its FCC Form 471, but had written a signed and dated acceptance letter before the FCC Form 471 was certified.²² Manatee County School District had a valid Funding Year 2005 multi-year contract in place for the relevant funding period, but mistakenly reposted for the same services in subsequent years and executed new contracts each year, including one contract that was not signed by the applicant when it filed its Funding Year 2006 FCC Form 471.²³ Midwest City-Del City Independent School District entered into a five-year agreement, renewable on an annual basis, in Funding Year 2005 with its service provider and inadvertently signed a contract renewal three days after certifying its FCC Form 471 in Funding Year 2007.²⁴ Urban Day School's service provider signature date and the effective date of the agreement were both February 7, 2007, before the FCC Form 471 was certified on February 8, 2007.²⁵ Urban Day School, however, did not sign the contract until five days after the FCC Form 471 was certified.²⁶

7. As the Commission found in the *Adams County Order*, these mistakes do not warrant the complete rejection of these Petitioners' applications for E-rate funding.²⁷ Although the record demonstrates that Petitioners' contracts had minor errors or were not signed and dated by both parties before the Petitioners filed their FCC Forms 471, they all had some form of an agreement in place during the relevant funding year prior to the filing of their applications.²⁸ Importantly, these appeals do not

¹⁸ 47 C.F.R. § 54.504(c).

¹⁹ See Request for Review by Barberton City School District; Request for Review of Coffee County School District; Request for Review of Kings River Elementary School District; Request for Review of Manatee County School District; Request for Review of Midwest City-Del City Independent School District; Request for Review of Urban Day School.

²⁰ See FCC Form 471, Barberton City School District (certified Jan. 30, 2004) (Barberton FCC Form 471).

²¹ See Request for Review of Coffee County School District at 2.

²² See FCC Form 471, Kings River Elementary School District (certified Feb. 6, 2007) (Kings River FCC Form 471); Request for Review by Kings River Elementary School District at 1-3.

²³ See Request for Review of Manatee County School District at 2-3.

²⁴ Request for Review of Midwest City-Del City Independent School District at 2.

²⁵ See FCC Form 471, Urban Day School (certified Feb. 8, 2007) (Urban Day School FCC Form 471); Request for Review of Urban Day School at Attachment 1 (IT People Unlimited, Inc. Contract).

²⁶ See Request for Review of Urban Day School at Attachment 1 (IT People Unlimited, Inc. Contract).

²⁷ *Adams County*, 22 FCC Rcd at 6023-24, para. 10.

²⁸ We also grant Barberton's appeal with respect to being denied funding because its contract expiration date changed from the previous year's FCC Form 471. See *supra* n.2. Barberton notes that USAC was under the (continued...)

involve a misuse of funds. The Commission recently found in the *Bishop Perry Order* that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are “procedural” in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and, therefore, does not serve the public interest.²⁹

8. We also find that good cause exists to grant a waiver for Middle Georgia Wilderness Institute, which was denied funding on a month-to-month basis after the contract with its service provider expired several months before the end of the E-rate funding year.³⁰ Middle Georgia Wilderness Institute entered into a multi-year contract in 2005 that expired on February 3, 2008.³¹ The school continued to receive services on a month-to-month basis from the same service provider after the contract ended, but was denied funding by USAC.³² Consistent with the *Adams County Order*, we waive USAC’s requirement that the contract expiration date coincide with the end of the funding year.³³

9. As the Commission found in the *Adams County Order*, these mistakes do not warrant the complete rejection of these Petitioners’ applications for E-rate funding.³⁴ Although the record demonstrates that Petitioners’ contracts had minor errors or were not signed and dated by both parties before the Petitioners filed their FCC Forms 471, they all had some form of an agreement in place during the relevant funding year prior to the filing of their applications.³⁵ Importantly, these appeals do not

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mistaken impression that Barberton had a multi-year contract when, in fact, Barberton entered into two separate one-year contracts that each had differing expiration dates. Request for Review by Barberton City School District at 3. Upon review of the record, we find that Barberton had two separate contracts that complied with E-rate program rules for two separate funding years. Therefore, since Barberton did not have a multi-year contract, we find it is acceptable that Barberton’s FCC Forms 471 had different expiration dates for Funding Years 2003 and 2004.

²⁹ See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5316-17, 5319-20, paras. 2, 9 (2006) (*Bishop Perry Order*). Moreover, as noted in the *Bishop Perry Order*, many applicants contend that the application process is complicated and time-consuming, and the Commission has started a proceeding to address, among other things, modifying the application and competitive bidding process for the schools and libraries support mechanism. See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11325, para. 40 (2005) (*Comprehensive Review NPRM*); *Bishop Perry Order*, 21 FCC Rcd at 5319-20, para. 9.

³⁰ Request for Review of Middle Georgia Wilderness Institute at 1-2.

³¹ *Id.* at 1.

³² *Id.*

³³ *Adams County Order*, 22 FCC Rcd at 6022, para. 8.

³⁴ *Id.* at 6023-24, para. 10.

³⁵ We also grant Barberton’s appeal with respect to being denied funding because its contract expiration date changed from the previous year’s FCC Form 471. See *supra* n.2. Barberton notes that USAC was under the mistaken impression that Barberton had a multi-year contract when, in fact, Barberton entered into two separate one-year contracts that each had differing expiration dates. Request for Review by Barberton City School District at 3. Upon review of the record, we find that Barberton had two separate contracts that complied with E-rate program (continued...)

involve a misuse of funds. The Commission recently found in the *Bishop Perry Order* that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are “procedural” in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and, therefore, does not serve the public interest.³⁶ We find that, for these applicants, denying or rescinding their requests for funding would create undue hardship and prevent these otherwise eligible schools and libraries from receiving E-rate funding. Finally, granting these appeals should have minimal effect on the Universal Service Fund (USF or the Fund).³⁷ Accordingly, we find that good cause exists to grant Petitioners a limited waiver of our rules, and remand these matters to USAC for further processing consistent with our decision.³⁸

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rules for two separate funding years. Therefore, since Barberton did not have a multi-year contract, we find it is acceptable that Barberton’s FCC Forms 471 had different expiration dates for Funding Years 2003 and 2004.

³⁶ See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5316-17, 5319-20, paras. 2, 9 (2006) (*Bishop Perry Order*). Moreover, as noted in the *Bishop Perry Order*, many applicants contend that the application process is complicated and time-consuming, and the Commission has started a proceeding to address, among other things, modifying the application and competitive bidding process for the schools and libraries support mechanism. See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11325, para. 40 (2005) (*Comprehensive Review NPRM*); *Bishop Perry Order*, 21 FCC Rcd at 5319-20, para. 9.

³⁷ We estimate that the appeals granted in this order involve applications for approximately \$3.35 million in funding for Funding Years 2004-2007. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter 2008 (Aug. 1, 2008). Thus, we determine that the action we take today should have minimal impact on the Universal Service Fund as a whole.

³⁸ In the case of one Petitioner, Clarksburg-Harrison Public Library (Clarksburg-Harrison), we also find good cause to waive section 54.720 of the Commission’s rules that establishes deadlines for affected parties to seek review of decisions issued by USAC. 47 C.F.R. § 54.720. Clarksburg-Harrison indicates that it was given different advice by the Commission and USAC regarding the proper procedure for filing its appeal and, by the time it determined the proper course of action, its appeal was late. Request for Review by Clarksburg-Harrison Public Library at 1. Specifically, Clarksburg-Harrison said it contacted USAC by phone and was told to file its appeal with the Commission. *Id.* The Commission subsequently told Clarksburg-Harrison to file with USAC “to obtain a case number.” *Id.* When the library eventually filed its appeal with USAC, it was 16 days late. *Id.* We find that the conflicting advice given to Clarksburg-Harrison hampered its ability to file in a timely manner. Had USAC or the Commission originally accepted Clarksburg-Harrison’s appeal, it would have been timely filed. Furthermore, Clarksburg-Harrison was only a few days late in filing its appeal and has demonstrated that it was making a good-faith effort to comply with the E-rate program’s procedures. Therefore, consistent with precedent, we find good cause to waive the filing deadline from section 54.720 of the Commission’s rules in this instance. See, e.g., *Request for Review by Benavides Independent School District*, File No. SLD-348268, CC Docket No. 02-6, Order, 21 FCC Rcd 12910 (Wireline Comp. Bur. 2006) (granting a waiver request when applicant did not receive notice of the requirements for filing an appeal in accordance with Commission rules).

10. Appeals Granted on the Merits. We also grant 11 appeals because we find that the applicants were either in compliance with the Commission's rules or USAC's guidance on contracts.³⁹ Consistent with precedent, we grant one request for review of a decision in which USAC denied funding solely because the execution date of the contract did not accompany the signature lines of both the applicant and the service provider.⁴⁰ Consistent with USAC's current guidance to applicants, we grant four appeals where the Petitioners had contracts signed by the applicant but not the service provider prior to the submission of their FCC Forms 471, or the Petitioner listed the effective date as the date the contract was signed.⁴¹ Finally, consistent with our obligation to conduct a *de novo* review of appeals of decisions made by USAC,⁴² we grant seven appeals on the merits because the Petitioners submitted evidence to the Commission demonstrating that each Petitioner had a valid, signed contract in place at the time it submitted its FCC Forms 471 to USAC.⁴³

11. We emphasize the limited nature of this decision. The Commission's competitive bidding rules serve as a central tenet of the E-rate program. They ensure more efficient pricing for

³⁹ See *supra* para. 2; 47 C.F.R. § 54.504(c); USAC website, Contract Guidance, <http://www.usac.org/sl/applicants/step04/contract-guidance.aspx> (retrieved Aug. 11, 2008).

⁴⁰ See Request for Review of Merkaz Bnos High School (USAC denied funding because the effective date of the contract was separate from the signature lines); see *Adams County Order*, 22 FCC Rcd at 6024, para. 11; *Request for Review of a Decision of the Universal Service Administrator by Gayville-Volin School District 63-1, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-471545, CC Docket No. 02-6, Order, 21 FCC Rcd 9274 (Wireline Comp. Bur. 2006) (granting the request for review where USAC denied funding solely because the agreement between Gayville-Volin and its service provider was not dated by both parties); *Request for Review of Richmond County School District, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-451211, 452514, 464649, CC Docket No. 02-6, Order, 21 FCC Rcd 6570 (Wireline Comp. Bur. 2006) (granting Richmond's appeal where USAC denied funding solely because the execution date of the contract did not accompany the signature lines of both the applicant and the service provider).

⁴¹ See Request for Review of Jerome Joint School District (demonstrating that it had valid contracts even though one contract did not contain the signature of the service provider and the second contract had the effective date of the contract instead of the date the parties signed); Request for Review of Ottawa Elementary School (noting that the school timely signed the three contracts in question but its service providers did not sign the contracts until a few days after the FCC Form 471 was submitted); Request for Review of Sophia Academy (noting that it provided USAC with a contract that was unsigned by its service provider but providing the correct, signed contract on appeal with the Commission); Request for Review of Townshend Elementary School (noting that the service provider had not signed and dated the contract when the FCC Form 471 was submitted but later provided USAC with a contract that was signed and dated by both parties).

⁴² See 47 C.F.R. § 54.723.

⁴³ See Request for Review of Cascade Union Elementary School District (noting that, although the wrong documentation was provided for Program Integrity Assurance (PIA) review, a valid contract was in place when the FCC Form 471 was submitted); Request for Review of Clarksburg-Harrison Public Library (providing the valid contract on appeal that was dated before submission of FCC Form 471); Request for Review and/or Waiver of Cleburne Independent School District (noting that it had a "ratified" contract, which is considered a valid contract under its state's procurement laws, before signing the actual contract); Request for Review of Durham Public School District (following North Carolina procurement law that requires only an agreement in writing, not a formal contract); Request for Review of Mosdos Chasidei Square (demonstrating that it had a valid contract when its FCC Form 471 was filed by noting the date at the top of the contract despite a conflicting date next to the signature that was written in several months later); Request for Review of St. Fidelis School (noting that it provided USAC with an unsigned, electronic copy of the contract but providing the correct, signed contract on appeal with the Commission).

telecommunications and information services purchased by schools and libraries and help deter waste, fraud and abuse.⁴⁴ Although we grant the subject appeals before us, our action here does not eliminate the rule that applicants have a signed contract in place when submitting an FCC Form 471. In addition, we continue to require E-rate applicants to submit complete and accurate contract information to USAC in a timely fashion as part of the application review process.

12. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the Requests for Review or Waiver addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the E-rate program rules and requirements. Because audits or investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or the Commission's rules, such proceedings can reveal instances in which universal service funds were disbursed improperly or in a manner inconsistent with the statute or the Commission's rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under the Commission's procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

13. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), the Requests for Review and Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED and REMANDED to USAC for further consideration in accordance with the terms of this order.

14. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), section 54.504(c) of the Commission's rules, 47 C.F.R. § 54.504(c), IS WAIVED to the limited extent described herein.

15. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), section 54.504(a) of the Commission's rules, 47 C.F.R. § 54.504(a), IS WAIVED to the limited extent described herein.

16. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), section 54.720 of the Commission's rules, 47 C.F.R. § 54.720, IS WAIVED to the limited extent described herein.

⁴⁴ See *Adams County Order*, 22 FCC Rcd at 6022, para. 8.

17. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to the authority delegated in sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), USAC SHALL COMPLETE its review of the underlying applications as listed in the Appendix and ISSUE an award or a denial based on a complete review and analysis no later than 90 days from release of this order.

18. IT IS FURTHER ORDERED that, pursuant to authority delegated under sections 0.91, 0.291 and 1.102 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.102, this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Jennifer K. McKee
Acting Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

St. Lucie County School District
BEN 127892
471 # 593337, FRN 1651705
Letter of Appeal
Federal Communications Commission
July 14, 2010

NOTE 16 - StLucie_FY11_LOA_signed_3-4-10

Letter of Agency

St. Lucie County School District
Billed Entity Number: 127892

Letter of Agency For FY 6 (2003 - 2004); FY 7 (2004 - 2005); FY 8 (2005 - 2006); FY 9 (2006 - 2007); FY 10 (2007 - 2008); FY 11 (2008 - 2009); FY 12 (2009 - 2010); FY 13 (2010 - 2011)

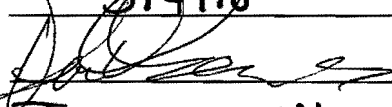
I hereby authorize eRate 360 Solutions, LLC and its employees: Keith C. Oakley, Steve Tenzer, Rich Larson, Carlos Alvarez, Matt Hetman, Fred Josephs, Bert Garofano, and Al Arauz to submit FCC Form 470, FCC Form 471, and other E-rate forms, and to submit various change applications such as SPIN changes and service substitutions, to the Schools and Library Division of the Universal Service Administrative Company on behalf of **St. Lucie County School District** for all eligible services outlined in the most current "Eligible Services List" published by USAC. I understand that, in submitting these forms on our behalf, you are making certifications for **St. Lucie County School District**. By signing this Letter of Agency, I make the following certifications

- (a) I certify that **schools in our district** are all schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- (b) I certify that our **school district** has secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that to the extent that the Billed Entity is passing through the non-discounted charges for the services requested under this Letter of Agency, that the entities I represent have secured access to all of the resources to pay the non-discounted charges for eligible services from funds to which access has been secured in the current funding year.
- (c) I certify that our **school district** is covered by a technology plan(s) that is written, that covers all 12 months of the funding year, and that has been or will be approved by a state or other authorized body, or an SLD-certified technology plan approver, prior to the commencement of service. The plan(s) is written at the following level(s):
 - ☐ an individual technology plan for using the services requested in this application; and/or
 - ☒ higher-level technology plan(s) for using the services requested in this application; or
 - ☐ no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.
- (d) I certify that the services the district purchases at discounts provided by 47 U.S.C. § 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the rules of the Federal Communications Commission (Commission or FCC) at 47 C.F.R. § 54.500(et seq.).
- (e) I certify that our **school district** has complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
- (f) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

- (g) I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
- (h) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Letter of Agency. I certify that I am authorized to make this request on behalf of the eligible entity(ies) covered by this Letter of Agency, that I have examined this Letter, that all of the information on this Letter is true and correct to the best of my knowledge, that the entities that will be receiving discounted services under this Letter pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.
- (i) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
- (j) I certify, on behalf of the entities covered by this Letter of Agency, that any funding requests for internal connections services, except basic maintenance services, applied for in the resulting FCC Form 471 application are not in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. § 54.506(c).
- (k) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.
- (l) I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information, and belief, all information provided to **eRate 360 Solutions, LLC** for E-rate submission is true.

District: St. Lucie County School District

Date: 3/19/10

Signature: 

Printed Name: Terence O'Leary

Title: Assistant Superintendent for ITS